

**STATE OF INDIANA
Board of Tax Review**

COUNTRY DEVELOPMENT LLC,)	On Appeal from the Jennings County
)	Property Tax Assessment Board
Petitioner,)	of Appeals
)	
v.)	Petition for Review of Assessment, Form 131
)	Petition No. 40-013-00-1-4-00003
JENNINGS COUNTY PROPERTY TAX)	Parcel No. 093301201700212
ASSESSMENT BOARD OF APPEALS)	
And CENTER TOWNSHIP ASSESSOR,)	
)	
Respondents.)	

Findings of Fact and Conclusions of Law

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

Issue

Whether the subject structure should be valued from the GCK pricing schedule.

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, Milo Smith with Tax Consultants, Inc., on behalf of Country Development LLC (Petitioner), filed a Form 131 petition requesting a review by the State. The Form 131 petition was filed on August 29, 2000. The Jennings County Property Tax Assessment Board of Appeals (PTABOA) Notification of Final Assessment Determination on the underlying Form 130 is dated August 2, 2000.
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on July 24, 2001, before Hearing Officer Paul Stultz. Testimony and exhibits were received into evidence. Mr. Smith represented the Petitioner. No one appeared to represent the PTABOA. However, prior to the hearing, the Hearing Officer received from the Jennings County Assessor's office a package of documents with a cover letter from Linda Kovacich, Jennings County Assessor. This information was made a part of the record and is labeled as Respondent Exhibit 1.
4. At the hearing, the subject Form 131 petition was made a part of the record and labeled Board Exhibit A. Notice of Hearing on Petition was labeled Board Exhibit B. In addition, the following exhibits were submitted:
Board Exhibit C – Subject property record card (PRC) reflecting Petitioner's assessment as of March 1, 1999

Petitioner Exhibit 1 – Package of documents containing the following:

- a. Three (3) page statement of the issues
- b. Eleven (11) copies of photographs of subject building
- c. Copy of 50 IAC 2.2-10-6.1(a)
- d. Copy of affidavit by Douglas Sweeney dated June 28, 2000.
- e. Copy of State Board Instructional Bulletin 91-8

Petitioner Exhibit 2 - Copy of *Susan Barker v. State Board of Tax Commissioners* pages 1 and 4

Petitioner Exhibit 3 – Copy of State Board Final Determination for Petition 03-005-95-1-4-00008, D. Sweemeu and Leon Roberts

Petitioner Exhibit 4 - Copy of State Board Final Determination for Petition 36-

017-93-1-4-00007R, Donald Morris; and five (5) copies of photographs of the Morris property

Petitioner Exhibit 5 - Copy of affidavit by John Martindale, dated March 16, 1993 with copy of Edwin Callaway's PRC

Petitioner Exhibit 6 - Package of documents containing the following:

- a. Statement of issues by Mr. Smith concerning Petition 40-441-94-OCI-0003
- b. Two (2) photographs of Componx, Inc.
- c. Copy of State Board Final Assessment Determination for Petition 40-441-94OCI-0003
- d. Copy of written findings for Petition 40-441-94OCI-0003
- e. Copy of Componx PRC

5. As noted in ¶3, no one appeared to represent the PTABOA, however, the Ms. Kovacich submitted following documents. This information has been entered into the record and labeled as Respondent Exhibit 1:
 - a. Cover letter from Linda Kovacich, Jennings County Assessor dated July 24, 2001
 - b. Copy of State Board's Final Assessment Determination for Petition 40-441-95-3-4-00009, with one page written findings
 - c. Copy of written findings for Petition 40-011-95-1-4-00006 (Petitioner is County Development LLC)
 - d. Copy of PRC prepared by the State Board
6. At the hearing, the Hearing Officer requested additional evidence from the Petitioner to be received on or before August 17, 2001. The Request for Additional Evidence is entered into the record and labeled as Board Exhibit D.
7. On August 1, 2001, the Hearing Officer received a proposed PRC for the subject structure showing the building being valued using the GCK pricing schedule. Also received was information regarding the cost of items present in the subject structure but not valued from the GCK pricing schedule that are priced from the

Country Development, LLC Findings and Conclusions

Unit-In-Place schedule. The additional evidence is entered into the record and labeled as Petitioner's Exhibit 7.

8. Ms. Kovacich received a copy of the requested additional evidence submitted by Mr. Smith. Per a phone conversation with the Hearing Officer on September 12, 2001, Ms. Kovacich declined to present a response to this additional evidence.

9. The Assessed Value of the subject property as determined by the PTABOA per the Form 115 is:

Land: \$42,130 Improvements: \$126,130 Total: \$168,260

The Assessed Value reflected on the Form 131 petition is:

Land: \$42,130 Improvements: \$127,430 Total: \$169,560

The difference of \$1,300 is due to new construction (detached garage) added to the improvements for the assessment as of March 1, 2000.

10. The subject property is located at 1845 North State Street, North Vernon, Center Township, Jennings County.

11. The Hearing Officer did not view the subject property.

Whether the subject structure should be valued from the GCK pricing schedule.

12. The Petitioner referred to the subject building under appeal as "buildings". The Petitioner stated during testimony that in fact there is only one (1) building under appeal. The PRC sketched the subject improvement as one (1) building. The building had several additions added since the initial construction date in 1977. The subject building is currently being assessed with four (4) different use types. The building under appeal will be referred to as one (1) building for the remainder of these findings and conclusions.

13. The subject structure is a 21,192 square foot (SF) one (1)-story metal building. The structure is valued from the GCM pricing schedule based on various usages.
14. The current valuing of the subject structure from the General Commercial Mercantile (GCM) schedule is incorrect. The subject structure should be valued from the GCK pricing schedule. *Smith testimony & Petitioner Exhibit 1.*
15. Features of the subject structure include steel skinned exterior walls, steel framing, steel columns, "X" bracing on walls and ceiling, Zee channel supports, and non-load bearing concrete block interior walls (division wall). *Smith testimony & Petitioner Exhibit 1.*
16. Copies of the Indiana Tax Court case of *Susan J. Barker v. State Board of Tax Commissioners*, 712 N.E. 2d 563 (Ind. Tax 1999) pages 1 and 4 and the State Board Final Determination for Donald D. Morris (Petition # 36-017-93-1-4-00007R) were submitted into evidence. *Petitioner Exhibits 2 & 4.*
17. Royal Realty of Seymour, owner of the Morris property on the March 1, 1995 assessment date had changed the usages of the structure. At the same time, they were denied an obsolescence adjustment for the 1995 assessment. By denying this request for obsolescence, the State Board concluded that the Morris building was not a special purpose designed building. *Smith testimony & Petitioner Exhibit 4.*
18. The Morris building was used for an auto dealership and was similar in design to the subject building under review. The subject building is not a special purpose designed building, and could have numerous types of commercial uses. *Smith testimony.*
19. Respondent Exhibit 1 contains two (2) State Board determinations involving the subject property, Petition #40-441-95-3-4-00009 and Petition #40-011-95-1-4-00006. Petition #40-441-95-3-4-00009 is a one (1) page findings that addressed

four (4) issues, none of which dealt with selection of schedule. Petition #40-011-95-1-4-00006 addressed four (4) issues. The first is “Whether the structure should be assessed using the GCK schedule”.

Conclusions of Law

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the 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.

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.

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 even though the taxpayer demonstrates flaws in it).

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.

Whether the subject structure should be valued from the GCK pricing schedule.

18. The State Board's Regulation, 50 IAC 2.2-10-6.1, provides an explanation of how to determine a base rate. Specifically, base rates are given for a range of perimeter-to-area ratios for specific construction types for various use and finish types. Models are provided as conceptual tools to use to replicate reproduction cost of a structure using typical construction materials assumed to exist for a given use type. Use type represents the model that best describes the structure.
19. Because of the numerous models provided, the base rates are divided into four (4) "association groupings", namely: (1) General Commercial Mercantile (GCM), (2) General Commercial Industrial (GCI), (3) General Commercial Residential (GCR), and (4) General Commercial Kit (GCK). Three (3) of the four (4) groupings contain use type descriptions in order to aid in selection. The GCK schedule is the exception.
20. "...(GCK) does not include use type descriptions. This schedule is utilized for valuing pre-engineered and pre-designed pole buildings, which are used for

commercial and industrial purposes. A format has been developed to value the base building on a perimeter-to-area ratio basis and to adjust the value based on various individual components of the building. Buildings classified as a special purpose design are not valued using the GCK pricing schedule.” 50 IAC 2.2-10-6.1(a)(1)(D).

21. When selecting the appropriate pricing schedule, there are only four factors to be considered in determining whether or not the GCK schedule is appropriate for valuing a structure. These four factors are: (1) whether the structure is pole framed; (2) whether the structure is pre-engineered; (3) whether the structure is for commercial or industrial use; and (4) whether the structure is a special purpose designed building. Therefore, if a building is a pre-engineered pole framed building used for commercial or industrial purposes, and is not a special purpose design building, the GCK schedule is the appropriate schedule for valuing the building.
22. 50 IAC 2.2-10-6.1 directs assessing officials to select and use the pricing schedule and model that best represents the structure being assessed. Therefore, in this appeal, the Petitioner has the burden of proving that the subject building qualifies to be valued from the GCK schedule, and that the GCK schedule best represents the subject building.
23. In assessing the subject structure, the County used the GCM pricing schedule, which includes those use types generally associated with mercantile related type operations. It is the Petitioner’s contention the subject structure is a pre-designed, pre-engineered building thus qualified to be valued from the GCK schedule.
24. 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.

25. Mr. Smith submitted photographs (Petitioner Exhibit 1) of the subject structure to support his contentions that the building had the following features: a steel skinned exterior walls, steel framing, steel columns, “X” bracing on walls and ceiling, cee channel supports, and non-load bearing concrete block walls inside the building (division wall). It is Mr. Smith’s opinion that these characteristics, except the division wall, fall specifically within the descriptive elements of the GCK schedule.
26. Many, if not all, of Mr. Smith’s features are taken directly from the State’s Instructional Bulletins 91-8 or 92-1. It should be noted that these bulletins were for the 1989 reassessment and are not applicable to this appeal. The appeal under review is for the assessment date as of March 1, 2000 and falls within the rules and regulations promulgated for the statewide 1995 general reassessment. It was the 1995 Regulation that created a specific GCK pricing schedule.
27. Mr. Smith does not present any analysis of the features found within the GCK pricing schedule with those of the subject structure. The fact that the subject structure is a metal building with metal framing does not automatically qualify the structure to be valued from the GCK schedule.
28. A number of the photographs presented by Mr. Smith clearly depict a concrete block interior wall or walls. Mr. Smith quickly dispels this observation as having no impact because these walls are not load bearing walls. This fact is not proven by Mr. Smith’s evidence or statement.
29. Mr. Smith submitted some information regarding two (2) Tax Court cases that he feels supports the Petitioner’s position (Petitioner Exhibits 2 and 4) – *Susan J. Barker v. State Board of Tax Commissioners*, 712 N.E. 2d 563 (Ind. Tax 1999)(*Barker*) and *Donald G. Morris v. State Board of Tax Commissioners*, 712 N.E. 2d 1120 (Ind. Tax 1999)(*Morris*).

30. Both the *Barker* and *Morris* cases involved 131 petitions filed for the March 1, 1993 assessment date. In these appeals the issue centered on whether a “kit” adjustment should be applied to the structures under review. Again, Instructional Bulletins 91-8 and 92-1 were reviewed as they related to this appeal and the adjustment sought. The State denied the Petitioner’s request for the “kit” adjustment because the structures did not qualify for such adjustments. The Petitioners, disagreeing with the State’s final determinations then filed in Tax Court.
31. The Tax Court determined that the features pointed to by the State in denying the Petitioners requests, did not automatically disqualify the structure for the adjustment. It was the Tax Court’s opinion that those features were not specifically spelled out within the bulletins as reasons why a structure would not qualify. The Tax Court opined that Instructional Bulletin 91-8 states that “kit” buildings may have “minimal building feature options” and still qualify for the “kit” adjustment.
32. Respecting the law of the *Barker* and *Morris* cases, and following the instructions mandated by the Tax Court in those cases, the subject improvements were determined to qualify for the “kit” adjustments.
33. The Tax Court decisions in both cases were predicated upon those rules and regulations promulgated for the statewide general reassessment for 1989, which included the State’s Instructional Bulletins 91-8 and 92-1. Neither the rules, the regulations nor instructional bulletins promulgated for the 1989 reassessment would have any bearing on the appeal under review in these findings and conclusions. The appeal under review is for the assessment date of March 1, 2000 and would follow the rules and regulations promulgated for the 1995 statewide general reassessment. See Conclusions of Law ¶126.
34. Mr. Smith presented the Morris building as a comparable to the subject structure, that according to Mr. Smith was determined by the State to be a GCK type

building. In making this comparison, Mr. Smith interjects that for the assessment as of March 1, 1995 the usage of the structure had changed for the Morris property (now owned by Royal Realty of Seymour) and in addition the new owners requested the application of obsolescence. It is Mr. Smith's opinion that the owners of the Morris property were denied obsolescence and therefore in denying the obsolescence request, the State had to conclude the Morris building was not a special purpose structure.

35. It is not quite apparent how Mr. Smith makes a correlation between the request for obsolescence, its subsequent denial and a structure being determined to be special purpose design or not. Unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E. 2d 1119.
36. Mr. Smith also submitted five (5) black and white photographs purported to be of the Morris property. Four (4) of the pictures were of the exterior and one (1) of the interior.
37. Based on the *Morris* decision, Mr. Smith opined the subject structure should be valued from the GCK schedule. Mr. Smith contends the Morris structures and the subject structure are of similar design and the structures were used for the same purpose.
38. As stated above the State final determination on the Morris property remained consistent with the opinion of the Tax Court and followed the instructions mandated by the Tax Court. The presentation of five (5) black and white photographs, primarily exterior photographs, and stating the use at one time was the same as the subject is not sufficient evidence to establish a prima facie case. The fact that a structure has a metal skin or that the use may be similar does not automatically qualify the structure to be valued from the GCK schedule.

39. Mr. Smith submits two (2) affidavits one signed by Douglas J. Sweeney, a general contractor (Petitioner Exhibit 5) and the other signed by John Martindale (“STRAN” dealer) (Petitioner Exhibit 1).
40. The Sweeney affidavit deals with the subject property and is dated June 28, 2000. In this affidavit, Mr. Sweeney states, “That the subject structure is a pre-engineered “kit” structure, as identified in “STB INSTRUCTIONAL BULLETIN 91-8”. In addition it also states, “That the subject structure is not a special purpose design building. This building could be used by many other types of businesses, with very few, if any design changes.”
41. This affidavit points to the State’s Instructional Bulletin 91-8. As stated in Conclusions of Law ¶¶26 and ¶¶33, this bulletin along with the State’s Instructional Bulletin 92-1 were included in the rules and regulations promulgated for the 1989 statewide general reassessment and not included in the rules and regulations promulgated for the statewide general reassessment for 1995. Neither the rules, the regulations nor the instructional bulletins promulgated for the 1989 reassessment have any bearing on the appeal under review in these findings and conclusions. The appeal under review is for the assessment date of March 1, 2000 and would follow the rules and regulations promulgated for the 1995 statewide general reassessment. It was the 1995 Regulation that created a specific GCK pricing schedule.
42. The affidavit does not show how the GCK pricing schedule relates to the subject property. In addition, questions arising from the review of the information within the affidavit remain unanswered because the individual signing the document was not present at the hearing. For example: What is the relationship, if any, between the subject structure and the general contractor? Did the general contractor design or assemble the subject structure? Has the contractor been to the subject structure? What is the background of the general contractor to act in the capacity of an expert on pre-engineered buildings? How did the contractor

determine (what criteria was used) the subject structure was not of special purpose design?

43. The Martindale affidavit also deals with the subject property and is dated March 16, 1993. In this affidavit, Mr. Martindale states, "That he has twenty-five (25) years experience as a "STRAN" dealer." "That "STRAN" is one of the leading manufacturers of pre-engineered "kit type" steel building systems." "That the building owned by Edwin G. & Judy Callaway located at N. State Street, North Vernon Indiana is a pre-engineered "kit type" steel building."
44. This affidavit, like the Sweeney affidavit, alludes to the State's Instructional Bulletin 91-8. As stated in Conclusions of Law ¶¶26, ¶¶33, and ¶¶41, this bulletin along with the State's Instructional Bulletin 92-1 were included in the rules and regulations promulgated for the 1989 statewide general reassessment and not included in the rules and regulations promulgated for the statewide general reassessment for 1995. Neither the rules, the regulations nor the instructional bulletins promulgated for the 1989 reassessment have any bearing on the appeal under review in these findings and conclusions. The appeal under review is for the assessment date of March 1, 2000 and would follow the rules and regulations promulgated for the 1995 statewide general reassessment. It was the 1995 Regulation that created a specific GCK pricing schedule.
45. As with the previous affidavit, the Martindale affidavit does not establish that the GCK schedule is the appropriate schedule for the subject property. Secondly, because the individual who signed the affidavit was not present at the hearing, questions arising from the information within the affidavit could not be asked of or verified by that person. Finally, there is no explanation of the relationship, if any, between the subject structure and the dealer. Did the dealer design or assemble the subject structure? Has the dealer been to the subject structure?

46. This affidavit does not say that the subject structure is a STRAN building. It only says that Mr. Martindale has been a dealer of STRAN and that STRAN is one of the leading manufacturers of pre-engineered “kit type” buildings.
47. Mr. Smith submitted a State Board Final Determination for D & Mauzy Sweemou and Leon Roberts (Sweemou) dated May 17, 2000. The issue under review was incorrect base rate (or selection of schedule). At the crux of the State’s determination was the fact that the Petitioner presented seven (7) similarly situated properties, to the subject structure, in an attempt to show disparate treatment of the subject. Included in the Petitioner’s evidence were photographs and PRCs of the comparables. A review of the comparables showed all the comparable properties were valued from the GCK schedule with each structure having some exterior brick wall(s).
48. In the Sweemou appeal the burden shifted, based on the evidence presented by the Petitioner, from the Petitioner to the County. It was then the responsibility of the County to rebut the taxpayer’s evidence and justify its decision with substantial evidence. The County’s position for denying the GCK pricing was due to the amount of brick exterior wall(s) and the amount of remodeling that was done.
49. In the Sweemou appeal the County failed to support their position or to show the structure failed to meet the criteria established by the GCK pricing schedule.
50. Petitioner Exhibit 6 consisted of a statement of issues (brief) for an appeal (Componx, Inc.) for the assessment date as of March 1, 1994, the State’s Final Determination for that appeal and a copy of a PRC for another parcel. However, it is not quite clear as to the intent of this information. One can only assume that Mr. Smith intended this information to be a comparable to the subject property and to support the issue for GCK pricing.

51. Mr. Smith does not explain how the issues in the brief and those of the State's Final Determination as well as the PRC are applicable to the issue and the subject structure under review. Mr. Smith does not present any analysis between Petitioner Exhibit 6 and the issue at hand.
52. Petitioner Exhibit 7 is Mr. Smith's response to the Hearing Officer's Request for Additional Evidence (Board Exhibit D). The evidence presented consisted of a PRC valuing the subject structure using the GCK schedule along with the assessment of other features that may not be found in the GCK pricing schedule. Needless to say this information is based on the assumption the subject structure would be valued using the GCK schedule. This is not the case.
53. As state previously, when selecting the appropriate pricing schedule, there are only four factors to be considered in determining whether or not the GCK schedule is appropriate for valuing a structure. These four factors are: (1) whether the structure is pole framed; (2) whether the structure is pre-engineered; (3) whether the structure is for commercial or industrial use; and (4) whether the structure is a special purpose designed building. Therefore, if a building is a pre-engineered pole framed building used for commercial or industrial purposes, and is not a special purpose design building, the GCK schedule is the appropriate schedule for valuing the building.
54. For all the reasons set forth above, the Petitioner failed to establish that the building meets the requirements to be priced as a GCK structure. Accordingly, there is no change in the assessment as a result of this appeal.

Other Finding

55. As stated in Finding of Fact ¶9, the Assessed Value of the property as determined by the PTABOA per Form 115 is:

Land: \$42,130 Improvements: \$126,130 Total: \$168,260

The Assessed Value reflected on the Form 11 is:

Land: \$42,130 Improvements: \$127,430 Total: \$169,560

The difference of \$1,300 in Improvements is due to new construction (detached garage) added to the Improvements as of March 1, 2000 (Form 11). Based on this information, the Assessed Value of record as of March 1, 2000 is determined to be:

Land: \$42,130 Improvements: \$127,430 Total: \$169,560

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