

**STATE OF INDIANA
Board of Tax Review**

DOLCO PACKAGING CORP.)	On Appeal from the Adams County Board
)	of Review
)	
Petitioner,)	
)	Petition for Review of Assessment, Form 131
v.)	Petition No. 01-016-98-1-3-00001
)	Parcel No. 022-040-00013220
ADAMS COUNTY BOARD OF REVIEW)	
And WASHINGTON 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:

Issues

1. Whether the pre-engineered metal structure should be priced using the GCK schedule.
2. Whether the proper schedule was used for physical depreciation.
3. Whether specific use areas of the structure were identified and computed properly.
4. Whether the grade factor is appropriate.

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 be considered a finding of fact.

2. Pursuant to Ind. Code § 6-1.1-15-3, Timothy Boyce of Review Corp., on behalf of Dolco Packaging Corporation (the Petitioner), filed a Form 131 petition requesting a review by the State. The Form 131 was filed on January 5, 1999. The Adams County Board of Review's (County Board) Assessment Determination on the underlying Form 130 is dated December 23, 1998.

3. Prior to the State holding an administrative hearing an Order (Board Exhibit C) was sent to the Petitioner, the Petitioner's representative, the Township Assessor and the County Assessor. This Order was prompted by the fact that the Petitioner raised the grade factor as an issue in the appeal.

4. This Order informed the parties the Indiana Tax Court recently declared the use of the unit-in-place tables to be the most preferable and objective technique to account for deviations from the model for purposes of base rate pricing. *Clark v. State Board of Tax Commissioners*, 742 N.E. 2d 46, at 49 (Ind. Tax 2001)(*Clark II*). The Order went on to say that the Petitioner should be prepared, at the hearing, to explain how the subject building differs from the model in a way that requires an adjustment in its base rate value and to show how the adjustment was quantified.

5. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on May 9, 2001 before Hearing Officer Patti Kindler. Testimony and exhibits were received into evidence. Timothy Boyce represented the Petitioner. Judith Affolder and Jeffery Kiess represented Adams County. Rex King and Herman Hammond represented Decatur-Washington Township.

6. 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 is labeled Board Exhibit B and the Order labeled as Board Exhibit C. In addition, the following exhibits were submitted:

Petitioner's Exhibit 1 - Summary of the Petitioner's grounds for appeal

Petitioner's Exhibit 2 - Interior and exterior photographs of the subject facility

Petitioner's Exhibit 3 - Copies of pages 33, 43, and 45 regarding GCI model specifications from 50 IAC 2.2-11

Petitioner's Exhibit 4 - Copies of pages 108 and 110, which contrast the GCK and GCI pricing schedules from 50 IAC-11

Petitioner's Exhibit 5 - Copy of 50 IAC 2.2-10, page 6 regarding grade

Petitioner's Exhibit 6 - Copies of 50 IAC 2.2-11, pages 122 and 123 regarding commercial and industrial depreciation schedules

Petitioner's Exhibit 7 - Copies of seven (7) State Board Final Determinations in which the issues were GCK pricing and choice of depreciation schedules

Petitioner's Exhibit 8 - Copies of six (6) Indiana Tax Court Determinations made regarding the GCK pricing schedule

Petitioner's Exhibit 9 - Sketch of the subject facility

Petitioner's Exhibit 10 - Copy of the *Componx, Inc. v. State Board of Tax Commissioners* Indiana Tax Court case

Respondent's Exhibit 1 - Respondent's rebuttal to the Petitioner's issues

Respondent's Exhibit 2 - Exterior sketch of the subject facility from assessment files

Respondent's Exhibit 3 - Subject property record card (PRC)

Respondent's Exhibit 4 - Partial architectural blueprints of the subject facility with foundation plan

7. At the hearing, the Hearing Officer requested additional evidence from Mr. Boyce in the form of a proposed PRC for the subject structure priced per the GCK schedule. The date of submission for the requested additional evidence from Mr.

Boyce was May 19, 2001. On May 18, 2001, the State received the additional information from Mr. Boyce. The Hearing Officer's request for additional evidence and Mr. Boyce's response are entered into the record and labeled Board Exhibit D and Petitioner's Exhibit 11 respectively.

8. At the hearing, the Respondents requested additional time to submit a rebuttal to the evidence presented at the hearing and the proposed PRC developed by Mr. Boyce (Board Exhibit E). The date of submission for the requested additional evidence from the Respondents was May 31, 2001. On May 30, 2001, the State received the additional information from the Respondents and entered it into the record as Respondent's Exhibit 5.
9. At the hearing, the parties to the appeal agreed that the assessed values under review for the 1998 tax year are: Land - \$32,200 Improvements - \$965,900.
10. The subject property is an industrial facility located at 2110 Patterson Street, Decatur, Washington Township, Adams County.
11. The Hearing Officer did not inspect the subject property.

Issue 1 – Whether the pre-engineered metal structure should have been priced using the GCK schedule.

12. The subject consists of several metal buildings, which are connected to one another. The first building was constructed in 1971 with additions added in 1984 and 1992. A metal warehouse was added in 1994 and additional office space in 1995. The subject should be priced from the GCK schedule. *Boyce Testimony.*
13. Some of the building's features are: 24 to 26 gauge exterior siding, low profile roof of 24 gauge metal, metal tapered end and side wall columns set in piers,

pole columns, purlins, and vinyl clad insulation. *Boyce Testimony*. Petitioner's Exhibits 1 and 2.

14. The structure also contains a partial 4-foot dock floor, a 4-foot non-load bearing tilt-up exterior concrete panel walls, concrete block interior partitions, an underground tunnel, 52 skylights, high intensity mercury vapor fixtures, and a 600 amp electrical service. The subject building has been altered from a typical "kit" building in to a special purpose building. *Kiess Testimony*. Respondent's Exhibit 1.
15. The subject structure was assessed as having 183,010 square feet and four (4) different use types (light manufacturing, light warehouse, light utility storage and industrial office) from the GCI pricing schedule. Respondent's Exhibit 3.

Issue 2 – Whether the proper schedule was used for physical depreciation.

16. The subject is currently depreciated from the 40-Year Life Expectancy Table.
17. The Petitioner argues that the building is a GCK building and should be depreciated from the 30-Year Life Expectancy Table. *Boyce Testimony*. Petitioner's Exhibit 1 and 11.
18. The Respondents claim that the structure has components typically found in GCI buildings, such as concrete block partitioning, concrete block interior offices and superior lighting and heating. In addition, the roof load snow tolerance is 45 pounds, which would disqualify the building as a light pre-engineered structure. *Kiess and King Testimony*. Respondent's Exhibits 1 and 5

Issue 3 – Whether specific use areas of the structure were identified and computed correctly.

19. The subject structure currently is assessed from the GCI schedule and has four (4) use types.
20. The Petitioner argues the building should be assessed from the GCK schedule, and there are no use types associated with that schedule, just occupancy types. *Boyce Testimony.* Petitioner’s Exhibits 1 and 4.
21. The Respondent claims the building is special use, therefore correctly priced from the GCI schedule. The use types are therefore correct. *Kiess Testimony.* Respondent’s Exhibit 5.

Issue 4 – Whether the grade factor is appropriate.

22. The subject is currently assessed from the GCI schedule with a grade of “C-1”.
23. The Petitioner argues that with a grade of “D-1” or “D-2”, the GCI schedule could be used. However, the grade as currently assigned is incorrect. *Boyce Testimony.* Petitioner’s Exhibit 1.
24. The Respondent argues that the Petitioner did not address the grade at the County hearing. The grade is correct. However, if the building were priced from the GCK schedule, the grade would have to be changed to a “C” or above. *Kiess Testimony.* Respondent’s Exhibits 1 and 5.

Conclusions of Law

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the County Board or issues that are raised as a result of the County Board'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 County Board. Ind. Code §§ 6-1.1-15-1 and -2.1. If the taxpayer, township assessor, or certain members of the County Board disagree with the County Board'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 County Board 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 County Board, 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.

D. Issue 1 – Whether the pre-engineered metal structure should have been priced using the GCK schedule

18. In assessing the subject building, the County used the GCI pricing schedule, which includes those use types generally associated with industrial related operations. The Petitioner maintains that the subject structure was incorrectly valued when the wrong pricing schedule was applied. The Petitioner contends the structure should be valued using the GCK pricing schedule.
19. The State's Regulation, 50 IAC 2.2-10-6.1, provides an explanation of how to determine a base rate. It directs assessing officials to select and use the pricing schedule and model that *best resembles the physical characteristics* of the building being assessed. *Barth I*, at 802. Specifically, base rates are given for a range of perimeter to area ratios for specific construction types for various uses and finish types. Models are provided as conceptual tools to use to replicate reproduction costs 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.
20. Because of 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 of the four “association groupings” contain use type descriptions in order to aid in selection. The GCK schedule is the exception.

21. “...GCK does not include use type descriptions. The schedule is utilized for valuing pre-engineered, pre-designed pole buildings that 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).
22. In sum, when selecting the appropriate pricing schedule, there are only four (4) factors to be considered in determining whether the GCK schedule is appropriate for valuing a structure. These factors are: (1) whether the structure is pre-engineered, (2) whether the structure is pole framed, (3) whether the structure is for commercial and 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 and industrial purposes, and is not a special purpose design building, the GCK schedule is the appropriate schedule for valuing the building.
23. 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. The Petitioner bears the responsibility of presenting probative evidence in order to establish a prima facie case. In order to establish a prima facie case, the Petitioner must present evidence sufficient to establish a given fact that if not contradicted will remain fact.

24. 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. *Whitley*, 704 N.E. 2d at 1119.
25. 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.
26. The Petitioner submitted testimony and evidence concerning the walls and framing of the building. In addition a letter was submitted from the contractor of the warehouse addition indicating that the subject is a typical pre-engineered light manufacturing structure. The original building, built at different times, consists of several Armco pre-engineered metal building systems, while the warehouse addition is a pre-engineered Butler building. The structure also contains 24 to 26 gauge metal siding, a low-pitch 24 gauge standing seam metal roof, tapered end and side wall columns, interior pole columns, metal purlins and beams. These characteristics fall specifically within the descriptive elements of the GCK schedule. See Petitioner's Exhibits 1, 2, 8, 10, and 11.
27. The Respondents position is that while the subject building may be a pre-engineered structure, it falls under the classification of a "special purpose design" pursuant to 50 IAC 2.2-10-6.1(a)(1) (D). The Respondents pointed to several characteristics that in their opinion made the structure a "special purpose design" building. Some of those characteristics are: that the subject structure was added on to at different times (sections), the existence of a dock floor, 25 foot bay spacing, partial exterior concrete panel walls, concrete block interior partitions, an underground tunnel, skylights, high intensity mercury vapor fixtures, and 600 amp electrical service. It is because of these additional features that it was determined to disqualify the subject building from the GCK pricing as "special purpose design".

28. Based on the evidence submitted and the testimony given and the fact that the Respondent agreed that the subject structure is a pre-engineered building, the Petitioner was able to support its contention that the structure should be valued using the GCK schedule. Since the Petitioner sustained its burden, the burden then shifted to the local assessing officials to justify their decision.
29. As previously stated, though the Respondents agreed in principle with the Petitioner that the subject structure may be a pre-engineered building, they specifically disqualified it from being valued using the GCK schedule because of additional features that made it a “special purpose design” building.
30. Several Tax Court decisions have determined that it is not acceptable to merely point to a deviation from the basic kit model and use that deviation to justify the denial of a kit adjustment, unless that deviation specifically disqualifies the improvement for the kit adjustment or the deviation increases the cost of the improvement so that the improvement is no longer economical. *Morris v. State Board of Tax Commissioners*, 712 N.E. 2d 1120 (Ind. Tax 1999). The existence of minimal building feature options, such as small amounts of brick or additional windows, does not disqualify a building from being considered a kit building, and being valued from the GCK schedule. *Barker v. State Board of Tax Commissioners*, 712 N.E. 2d 563 (Ind. Tax, 1999).
31. In addition, in the Tax Court case *LDI Manufacturing Co., Inc. v. State Board of Tax Commissioners*, 759 N.E. 2d 685 (Ind. Tax 2001), the Tax Court defined a “special–purpose property” or a “special–design property” as “[a] limited-market property with a unique physical design, special construction materials, or a layout that restricts its utility to the use for which it was built[.]” Appraisal Institute, *The Appraisal of Real Estate* 25 (12th ed. 2001).
32. With these cases in mind, the Respondents have not shown that the features they referenced would disqualified the building from being valued using the GCK

schedule or that the subject structure is of a unique physical design, uses special construction materials, or that its utility is restricted and thus “special purpose”.

33. The features pointed to by the Respondents, that in their opinion disqualified the subject structure from being valued using the GCK schedule, are features that can be individually valued and would not make the subject structure a “special-purpose” or “special-design property”. Nothing within the GCK schedule or its description precludes a building with these features from being valued using the GCK pricing schedule. Where an improvement qualifies for the kit adjustment, the application of the kit adjustment is mandatory, not discretionary. See *Cf. Zakutansky v. State Board of Tax Commissioners*, 696 N.E. 2d at 497.
34. There are two (2) methods to adjust an improvement’s assessment for deviations from the model. The first is to adjust the grade of the subject. “Where possible, this type of an adjustment should be avoided because it requires an assessing official’s subjective judgment.” *Clark v. State Board of Tax Commissioners*, 742 N.E. 2d 46, 49 (Ind. Tax 2001)(Clark II). See also *Whitley*, 704 N.E. 2d 1113.
35. “Under some circumstances, an improvement’s deviation from the model used to assess it may be accounted for via a grade adjustment.” However, the evidence presented must explain how and to what extent the subject deviates from the model, why those deviations deserve an adjustment, and why a subjective (as opposed to objective) adjustment is appropriate. *Quality Farm and Fleet v. State Board of Tax Commissioners*, 747 N.E. 2d 88, 94 (Ind. Tax 2001).
36. The second, and preferred “method “ to account for these features is to use separate schedules that show the cost of certain components and features present in the model. This method allows an assessing official to make an objective adjustment to the improvement’s base rate”. *Clark I*, 742 N.E. 2d at 49. See also *Whitley*, 704 N.E. 2d 1113.

37. The State has recognized that not all improvements will conform exactly to the particular pricing schedule used to assess the improvement. *See Bock Prods. Inc. v State Board of Tax Commissioners*, 683 N.E. 2d 1368, 1372 (Ind. Tax 1997). Therefore, the State has provided separate schedules showing the costs of certain components and features in order to allow assessors to adjust the base rate to account for an improvement's deviation from the model used to develop the pricing schedule.
38. As previously stated, the presence of certain features or options within the subject structure such as: non-load bearing concrete knee-walls, dock flooring, skylights, and concrete block interior partitions do not disqualify the building from being valued from the GCK pricing schedule. Nor do these additional features disqualify the evidence brought forth that the subject was constructed using light pre-engineered metal components typical of a GCK structure.
39. For all the reasons set forth above, it is determine to value the subject structure using the GCK pricing schedule.

Proposed PRCs and adjustments

40. The extra cost of the subject structure's additional options (features) will be valued using 50 IAC 2.2-15, the Unit-in-Place schedule and 50 IAC 2.2-11-6, Schedule C, GC Base Price Components and Adjustments schedule. At the Hearing Officer's request, the Petitioner provided a proposed PRC that included the costs from the Regulation for those additional features that are not valued within the GCK pricing schedule (Petitioner's Exhibit 11).
41. The Petitioner suggested that there was an error in the square footage of the facility. Square footage was not an issue in this appeal, and therefore, the square footage changes set forth by the Petitioner will not be considered.

42. The County submitted a PRC along with its rebuttal regarding several omissions in the Petitioner's proposed PRC pricing. Based on these new concerns, the State has considered and reviewed the proposed PRCs from both parties in this appeal, and will make the appropriate revisions.
43. First, the square footages submitted by each party will not be used. Square footage was not an issue raised on the Form 131 petition; therefore no change will be made in the square footage of the subject structure.
44. In the pricing of the attached offices, the parties only disagreed in the pricing of the air conditioning. Air conditioning is an added feature for GCK buildings; therefore, there will be an adjustment for air conditioning.
45. In the pricing of the manufacturing and warehouse building the parties differed in a number of areas on their proposed PRCs. First, the Respondents proposed pricing schedule included adjustments for an interior liner, partitioning, lighting, and heating. There was evidence presented that indicated the presence of a liner (Petitioner's Exhibit 11). Also, a partitioning adjustment was made when the subject structure was priced from the GCI schedule (see original County PRC). The same adjustment will be made using the GCK pricing schedule. Likewise, there was an adjustment made for "no heat" in the utility storage areas and this adjustment will also be made using the GCK pricing schedule.
46. Further, the Respondent included an adjustment for the heating system. There was no adjustment made for the heating system when the structure was priced from the GCI schedule. The Respondent's adjustment compares the cost of heating in a GCI structure with the adjustment allowed for heating in the GCK structure. In this instance, the GCK schedule indicates an adjustment of \$0.70 per square foot for heating. The heating cost for the GCI Light Manufacturing is \$2.05. The Respondent claims the subject has a heating system closely resembling that of the GCI Light Manufacturing schedule, therefore the \$2.05 is the more appropriate value to use. The Respondent concludes that \$2.05 -

\$0.70 = \$1.35, and this is the adjustment that should be made in the GCK pricing.

47. The Respondent uses the same type of analysis in determining the lighting adjustment. \$2.10 (GCI Light Manufacturing) - \$0.55 (GCK schedule) = \$1.55. See 50 IAC 2.2-11-6, Schedule C, GC Base Price Components and Adjustments and 50 IAC 2.2-11-6, Schedule A.4.
48. Assuming for the moment that Schedule C adjustments can be made by picking and choosing component adjustments among models as the Respondents advocates, the record is devoid of the necessary factual predicate to establish that the heating system and lighting in the subject building is the same as, or more similar to, that described in the GCI – Light Manufacturing model. Adjustments will not be made simply because the Respondent asks for them, or opines that they should be made.
49. While 50 IAC 2.2-11-6, Schedule C Base Price Components and Adjustment, facilitates a deduction for heat or lighting from the base rate of a particular use-type model such as GCI – Light Manufacturing, Schedule C does not provide for base rate adjustments between models. *Barth I* at 802 (“The base rate for an improvement is calculated by choosing the model that resembles the physical characteristics of the subject improvement, and *then applying the price schedule associated with that model to the improvement.*”)(Emphasis added); 50 IAC 2.2-10-6.1(c). Clearly, once the appropriate use-type model is selected, the base rate adjustments must be made within that selected model.
50. It is the state’s opinion that, picking and choosing base rate adjustments between use-type models is not appropriate.
51. The Indiana Supreme Court recognizes that Indiana’s real estate property tax system is a mass appraisal system, and holds that taxpayers cannot “expect the

full achievement of absolute and precise exactitude” regarding property tax assessments. *Town of St. John V*, 702 N.E. 2d at 1040.

52. The State will not make the adjustments requested by the Respondent based on the heating or lighting systems not matching exactly to that of the model.
53. The Petitioner, on the other hand, presented evidence indicating the lighting upgrade cost an additional \$.25 per square foot. The letter from the contractor supported this. The letter also included the pricing for the skylights, which was accepted by the Respondent. The Petitioner’s adjustment for the lighting will be used in the calculation. The square footage will need to be changed to reflect the square footage shown on the original County PRC. There was no evidence submitted indicating the heating system is above average. Therefore, there will not be any adjustment made for the heating system (Other than what has been discussed in Conclusions of Law ¶45).
54. At the hearing, the Petitioner stated there were 52 skylights. The Petitioner presented a cost for the skylights of \$78,000. The Respondents did not present any evidence that disputed the number of skylights or the cost of those skylights. Therefore, the Petitioner’s submitted cost of the skylights will be included in the assessment under Special Features on the PRC.
55. On the original County PRC, there was an additional 1,600 square foot office area. Both parties priced an additional office, however, they used the GCI pricing schedule. The State will not accept this pricing; instead, the State will use the exact same pricing schedule as used with the other office area. There was no evidence presented indicating this office area should be priced in any other manner. However, this office area was built in 1995 and added to the assessment in 1996; therefore, it is priced separately because no physical depreciation may be applied to it.

56. The State determines that the building under review should be assessed from the GCK pricing schedule. Because the property is now assessed from a different schedule, all appropriate adjustments should be made that are consistent with these findings and the GCK schedule. These adjustments may include but are not limited to: a positive air conditioning adjustment in the attached offices, liner adjustment, a negative partitioning adjustment, a negative adjustment for the lack of heat in the utility storage areas, a positive lighting adjustment (\$.25) and an additional cost for skylights (\$78,000).
57. A change in the assessment is made as a result of the GCK pricing issue.

E. Issue 2 – Whether the proper schedule was used for physical depreciation.

58. The State's Regulation, 50 IAC 2.2-10-7, provides an explanation of how depreciation is determined. Physical depreciation is a combination of age and condition. Life Expectancy Tables are provided to enable the correct selection of physical depreciation. There are four (4) tables provided for the physical depreciation of commercial and industrial buildings. These are: (1) the 30-Year Life Expectancy Table, (2) the 40-Year Life Expectancy Table, (3) the 50-Year Life Expectancy Table, and (4) the 60-Year Life Expectancy Table.
59. In short, to determine the correct amount of physical depreciation of a building, the first step is to select the appropriate life expectancy table based on a building's use and components. The second step is to determine the age and condition of the building.
60. The commercial and industrial depreciation schedules are included in 50 IAC 2.2-11-7. The County claims the subject structure is not considered a *light* pre-engineered structure and therefore it used the 40-Year Life Expectancy Table to apply physical depreciation for all fire-resistant buildings. However, the Petitioner

provided probative evidence that the subject is a light pre-engineered structure and should be depreciated utilizing the 30-Year Life Expectancy Table.

61. 50 IAC 2.2-11-7 under the 30-Year Life Expectancy Table states in part, “wood joist offices, wood joist manufacturing facilities, low-cost motels, *light pre-engineered buildings* . . .” Under the 40-Year Life Expectancy Table it states, “wood joist apartments, medical facilities, parking garages, all-fire resistant buildings not listed elsewhere.” Therefore, a light pre-engineered building that is also fire-resistant (and qualifies to be valued from the GCK pricing schedule) would be depreciated from the 30-Year Life Expectancy Table. See *Wareco Enterprises v. State Board of Tax Commissions*, 689 N.E. 2d at 1303.
62. There is a change in the assessment as a result of the subject structure being depreciated from the 30-Year Life Expectancy Table.

F. Issue 3 – Whether specific use areas of the structure were identified and computed properly.

63. In the current assessment, the subject building is divided into four (4) different use areas using the GCI pricing schedule.
64. Since it has been determined to value the subject structure using the GCK pricing schedule, use-types associated with the GCI schedule are no longer appropriate. Instead, the subject will be priced according to interior occupancies, which include: unfinished, semi-finished, finished open and divided occupancies, pursuant to the GCK pricing schedule. 50 IAC 2.2-11-6, Schedule A.4.
65. There is a change in the assessment as a result of this issue.

G. Issue 4 – Whether the grade factor is appropriate.

66. In the current assessment, the subject building has a grade of “C-1”. This grade was based on a comparison to the GCI schedule models.
67. Since the building will now be priced using the GCK schedule, a comparison to GCI models to determine the grade is no longer appropriate. For the assessment to be correct, the grade must be adjusted, based on the GCK descriptions. See *Barth I*, 699 N.E. 2d 800 (Ind. Tax, 1998).
68. Because the application of the GCK schedule for the subject building may create an error in the “C-1” grade currently assigned to the building, the State may alter the grade factor. If buildings qualify for the kit adjustment, then, in order to arrive at the correct assessment of those buildings, the grading of those buildings will likely require revision. Therefore, the kit adjustment and the grading of the buildings, though discrete issues, are inextricably linked. *Barth I*, 699 N.E. 2d 800.
69. There are two (2) methods to adjust an improvement’s assessment for deviations from the model. The first is to adjust the grade of the subject. “Where possible, this type of an adjustment should be avoided because it requires an assessing official’s subjective judgment.” *Clark II* 742 N.E. 2d at 49. See also *Whitley*.
70. “Under some circumstances, an improvement’s deviation from the model used to assess it may be accounted for via a grade adjustment.” However, the evidence presented must explain how and to what extent the subject deviates from the model, why those deviations deserve an adjustment, and why a subjective (as opposed to objective) adjustment is appropriate. *Quality Farm and Fleet, Inc. v. State Board of Tax Commissioners*, 2001 WL 419066 (Ind. Tax 2001).
71. The second, and preferred method, “is to use separate schedules that show the cost of certain components and features present in the model. This method allows an assessing official to make an objective adjustment to improvement’s base rate.” *Clark II*, 742 N.E. 2d at 49. See also *Whitley*, 704 N.E. 2d 1113.

72. The Petitioner must identify the model used to assess the improvement. The Petitioner must also demonstrate whether the current grade does not already account for lower construction costs due to these features. *Miller Structures v. State Board of Tax Commissioners*, 2001 WL 422991 (Ind. Tax 2001). Accordingly, the Petitioner must show how the subject deviates from the model, and quantify how the alleged deviations affect the subject's assessment.
73. In the case at bar, the Petitioner has demonstrated how the subject deviates from the GCK model, has quantified the deviations and has added them in under the Special Features section of the PRC. Therefore, the appropriate grade for the subject building is "C". There is a change in the assessment as a result of this issue.

H. Other Conclusions

74. The Petitioner claims that the square footage shown on the PRC is incorrect. The Petitioner also stated this was not on the Form 131 petition and knew the State would not consider this issue. The County Board acknowledged there was an error in the square footage and would make the change, and go back as far as they could and give the Petitioner a refund. The Petitioner and the County Board presented square footage figures in their additional evidence. However, this was not an issue listed on the Form 131 petition for review, therefore, the State declines to review the square footage and has used the measurements and areas shown on the current PRC.

SUMMARY OF STATE DETERMINATIONS

Issue No. 1 – GCK – There is a change in the assessment. The subject building should be assessed from the GCK schedule with all the appropriate adjustments.

Issue No. 2 – Depreciation – There is a change in the assessment. The subject building should be depreciated from the 30-Year Life Expectancy Table.

Issue No. 3 – Use – There is no change in the assessment. With GCK there are no use classifications.

Issue No. 4 – Grade – There is a change in the assessment. The grade of the subject building is “C.”

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 11th day of July, 2002.

Chairman, Indiana Board of Tax Review