

STATE OF INDIANA
Board of Tax Review

In the matter of the Petition for Review)
of Assessment, Form 131) Petition No. : 10-030-95-1-4-00020

Parcel No.: 09000140580

Assessment Year: 1995

Petitioner: Essroc Materials, Inc.
 Louisville Cement Company
 430 Mountain Avenue
 Murray Hill, New Jersey 07974

Petitioner Representative: DuCharme, McMillen & Associates, Mike Caron
 8275 Allison Pointe Trail Suite 220
 Indianapolis, Indiana 46250

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 grade is excessive in various buildings.
2. Whether the condition is excessive in various buildings.
3. Whether certain items should be assessed as personal property.
4. Whether additional obsolescence should be applied to various buildings.

5. Whether miscellaneous pricing errors have been made to various buildings, such as use types, wall heights, base rate adjustments, etc.

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, Mr. Michael Caron, DuCharme, McMillen & Associates, on behalf of Essroc Materials, Inc. (Petitioner) filed a Form 131 petition requesting a review by the State. The Form 131 was filed on July 8, 1996. The Clark County Board of Review (BOR) issued its determination on the underlying Form 130 on June 7, 1996.
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on September 10, 1999 before Hearing Officer Jennifer Bippus. Testimony and exhibits were received into evidence. Mr. Michael Caron represented the Petitioner. The County and the Township were not represented.
4. At the hearing, the subject Form 131 petition was made part of the record as Board Exhibit A. In addition, the following exhibits were submitted to the State Board:

Petitioner's Ex. A – Taxpayer's grounds for appeal

Petitioner's Ex. B – Specific information to Building #11

Petitioner's Ex. C - Specific information to Building #13

Petitioner's Ex. D – Specific information to Building #17

Petitioner's Ex. E – Specific information to Building #200

Petitioner's Ex. F – Specific information to Building #219

Petitioner's Ex. G – Photos of Buildings # 2 and #219

Petitioner's Ex. H – Additional evidence – photos of subject

Buildings # 2, 17, 19, 20, and 200

5. The subject property is located at Highway 31, Speed, (Silver Creek Township, Clark County).
6. The Hearing Officer did not view the property.
7. Mr. Caron, at the request of the Hearing Officer, presented the following qualifications for assessing the subject property:
 - a) He has used the Indiana system of appraising property for taxing purposes for over twenty-three (23) years.
 - b) During the 1979 reassessment in Marion County, he worked for John J. Cleminshaw Company.
 - c) He supervised or did the assessments for all of the commercial and industrial properties in Marion County.
 - d) For eleven years he served as an instructor for the Indiana Assessor's Association teaching commercial and industrial appraisal grade and design.
 - e) He taught a course on legal descriptions at the State Tax Board's January Conference.
 - f) He has contracted his assessment services to the Marion County Auditor's office. He is developing software and programs for processing refund claims and exemptions.
 - g) He has served as a consultant to business and industry for the past twelve (12) years, eleven (11) of those years with DuCharme, McMillen & Associates.
 - h) He is a licensed real estate broker with the State of Indiana.
 - i) He is a member of the Indiana Association of Assessors, and the International Association of Assessing Officers.
 - j) He holds the certification of Assessor-Appraiser from the Indiana Assessor's Association.

- k) He used the Indiana standards to conduct the assessment of the subject property.
 - l) He has done several assessments in the last three (3) years on similar properties.
 - m) He was one of the first three (3) people to obtain the Level II certification in Indiana. He also wrote some of the questions for the test.
8. Mr. Caron testified the fee arrangement with the subject client is a percentage of tax savings.

Issue No. 1 - Grade

9. Mr. Caron testified the grade of C is too high for Building #17; the building is metal skinned and deviates from the model, which specifies concrete block is used. Mr. Caron further testified a C-2 grade is more appropriate.
10. Mr. Caron testified that Building #200 should be graded D, as it is of metal pre-engineered construction, and has open side walls. The building deviates from the normal model in Regulation #17 for a "C" building.

Issue No. 2 – Personal Property

11. This issue was withdrawn.

Issue No. 3 – Obsolescence

12. This issue was withdrawn.

Issue No. 4 – Condition

13. Mr. Caron testified that Building #2 is in very poor condition. The 2' x 6' framing members in the outside wall have rotted due to the lack of moisture barrier, resulting in structural unsoundness. This has also resulted in the stucco pulling away from the backup material. Mr. Caron further testified the front right stucco wall is also pulling away from the building.
14. Mr. Caron testified the condition of Buildings #19 & 20 is very poor. There is asbestos in the buildings. They were part of a manufacturing process that no longer exists, are not used, and were abandoned prior to 1992.
15. The Hearing Officer requested additional photos showing the interior and exterior of Buildings #2, 19, & 20. The Photos were submitted in a timely manner and are presented as Petitioner's Ex. H.

Issue No. 5 – Pricing Errors (Use types, wall heights, base rate adjustments, etc.)

16. Mr. Caron testified the following changes should be made to Building #11:
 - (a) All of the building is not a four (4) story.
 - (b) The perimeter-to-area ratio (PAR) should be calculated separately for each floor.
 - (c) The building is wall type 1, not wall type 2. The building is constructed of corrugated asbestos siding vs. concrete.
 - (d) The framing is incorrect - the framing is fire resistant. The structural roof is of "metal decking, steel beam and girder construction per industrial report."
 - (e) The structure is heavy manufacturing, with areas of utility storage.
 - (f) The age is incorrect; the weighted average is 1958, resulting in physical depreciation of 55%.

17. Mr. Caron testified the following changes should be made to Building # 13:
- (a) The PAR is incorrect. The additions were valued separately. One PAR should be used for the entire building.
 - (b) The exterior features have been priced incorrectly. The features should be included as part of the building value, not as exterior features.
18. Mr. Caron testified the following changes should to be made to Building #17:
- (a) The dock floor is priced incorrectly - it should be \$1.40 vs. \$2.40 (4 x .35).
 - (b) The wall height is incorrect. It should be 20'.
 - (c) The use type is classified incorrectly. The office and the storage addition should be percentaged with the first floor, rather than valued as special features.
 - (d) There is no deduction made for lack of interior partitions. The deduction should be -.75.
 - (e) There is an incorrect charge for the depressed track. There is no deduction for earth floor, nor addition for excavation.
 - (f) The pricing of the ramp cannot be ascertained from the property record card.
 - (g) The pricing of the mezzanine cannot be ascertained from the property record card.
 - (h) There is an incorrect charge for the sprinkler. Only 15% of the total building has sprinklers.
19. Mr. Caron testified there is a math error on the pricing ladder for Building #18:
- $$\begin{aligned} & \$187,920 + \$57,580 + \$163,360 = \$408,860 \text{ vs. } \$926,860 \\ & \$408,860 \text{ less } 70\% \text{ physical depreciation} = \$122,660 \\ & \$122,660 \text{ less } 25\% \text{ obsolescence} = \$92,000 \text{ vs. } \$187,700 \end{aligned}$$
20. Mr. Caron testified there is no deduction for the lack of partitions in Building #200.

21. Mr. Caron testified that Building #219 should be priced as an industrial canopy with an addition for soffit and lighting (\$5.05 + \$1.80), rather than as a building. Mr. Caron provided a photo of this building (Petitioner's Exhibit G).

Conclusions of Law

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

A. Indiana's Property Tax System

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

B. Burden

7. Ind. Code § 6-1.1-15-3 requires the State to review the actions of the PTABOA, but does not require the State to review the initial assessment or undertake reassessment of the property. The State has the ability to decide the administrative appeal based upon the evidence presented and to limit its review to the issues the taxpayer presents. *Whitley Products, Inc. v. State Board of Tax*

Commissioners, 704 N.E. 2d 1113, 1118 (Ind. Tax 1998) (citing *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765, 769 (Ind. Tax 1997)).

8. In reviewing the actions of the PTABOA, the State is entitled to presume that its actions are correct. “Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies.” *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.
9. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice*, § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128. See also Ind. Code § 4-21.5-2-4(a)(10) (Though the State is exempted from the Indiana Administrative Orders & Procedures Act, it is cited for the proposition that Indiana follows the customary common law rule regarding burden).
10. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. *Whitley*, 704 N.E. 2d at 1119. These presentations should both outline the alleged errors and support the allegations with evidence. “Allegations, unsupported by factual evidence, remain mere allegations.” *Id* (citing *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d. 890, 893 (Ind. Tax 1995)). The State is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *Whitley*, 704 N.E. 2d at 1119 (citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).
11. The taxpayer’s burden in the State’s administrative proceedings is two-fold: (1) the taxpayer must identify properties that are similarly situated to the contested

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

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

A. Credibility of Certain Evidence

18. The contingency fee arrangement between Mr. Caron and his client goes to the weight of Mr. Caron's testimony and the documentary evidence prepared by him because Mr. Caron receives compensation based on the amount that the Petitioner's tax assessment is reduced. Courts agree that an expert witness whose fee is contingent upon the outcome of a case is improperly motivated and can not objectively inform the court on an issue before it. "It is the potentially adverse influence of the motivation to enhance his compensation that makes a contingent fee arrangement for an expert witness inappropriate." *City and County of Denver v. Board of Assessment*, 947 P. 2d 1373, 1379 (Colo. 1997)(citing *New England Tel. & Tel. Co. v. Board of Assessors of Boston*, 392 Mass. 865, 468 N.E. 2d 263, 265 (1984)). "[A] bargain to pay compensation to an expert witness for the purpose of 'forming an opinion' is lawful 'provided that payment is not contingent on success in litigation affected by the evidence'." *Id* (citing Arthur Linton Corbin, *Corbin on Contracts* 1430 (1962 & Supp. 1997)). Moreover, the Uniform Standards of Professional Appraisal Practice (USPAP) state that it is "unethical" to accept compensation that is contingent upon reporting "a direction in value that favors the cause of the client. . . [or] the

attainment of a desired result.” *Denver*, 947 P. 2d at 1378 (citing USPAP at 2 (1996)). See also *Wirth v. State Board of Tax Commissioners*, 613 N.E. 2d 874 (Ind. Tax 1993)(The contingent witness fee nature of the representative’s (consultant’s) agreement goes to the weight of the testimony.)

Issue No. 1 - Grade and Design

19. “Grade” means the classification of an improvement based on certain construction specifications and quality of materials and workmanship. 50 IAC 2.2-1-30.
20. Grade is used in the cost approach to account for deviations from the norm or “C” grade. The quality and design of a building are the most significant variables in establishing grade. 50 IAC 2.2-10-3.
21. 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 | 60% |
- 50 IAC 2.2-7-6(e).
22. Intermediate grade levels ranging from “A+10” through “E+1” 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).

23. The Petitioner asserts that the appropriate grade factor for Building #17 is “C-2”. This conclusion is based upon the fact that the building is metal skinned and deviates from the model, which specifies concrete block.
24. The Petitioner asserts that the appropriate grade factor for Building #200 is “D” because the building is pre-engineered metal construction, has open side walls, and deviates from the model for a “C” building.
25. Mr. Caron submitted photographs (Petitioner's Ex. H) of the subject buildings, Buildings #17 and #200, construction details from an industrial report, and revised property record cards.
26. There are two 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.
27. “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*, 747 N.E. 2d 88, 94 (Ind. Tax 2001).
28. 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.
29. 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*, 748 N.E. 2d 943, 953 (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.

30. While Mr. Caron opines the buildings' grades should be lowered for construction variations, he did not supply any calculations sustaining his requested grades. Nor did he note that the construction of the subject buildings meets or exceeds some of the model specifications.
31. The Petitioner did not submit any evidence showing that the current assessment is incorrect. The Petitioner did not identify similarly situated properties in an attempt to establish disparate treatment.
32. The taxpayer's burden in the State Board'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.
33. For all the reasons set forth above, the Petitioner did not meet his burden in this appeal. Accordingly, the State Board denies the request for a grade reduction.

Issue No. 2 - Personal Property

34. This issue was withdrawn.

Issue No. 3 – Obsolescence

35. This issue was withdrawn.

Issue No. 4 – Condition

36. This issue was not included on the Form 131 petition and will not be addressed. As a result no change will be made to Buildings #2, #19, and #20.

Issue No. 5 – Pricing Errors

37. Issue Number 5 addresses numerous alleged pricing errors in the subject. These alleged errors will be addressed by building and issue.

Building #11

PAR

38. 50 IAC 2.2-10-6.1(a)(4) states, “Perimeter Area Ratio (PAR) is determined by dividing the total linear feet in the effective perimeter of the building by the corresponding area, multiplying that quotient by one hundred (100), and rounding to the nearest whole number. In calculating the effective perimeter of buildings with party walls, include sixty percent (60%) of the party walls with finished interior surface.
39. Mr. Caron submitted a diagram (Petitioner’s Exhibit B) showing the subject building is not totally a four-story building. Each floor should have the PAR figured based on the dimensions of the floor.
40. Mr. Caron presented a revised property record card with the calculations and measurements adjusted. However, Mr. Caron used a sketch from 1989. The 1995 appraisal of construction report shows that the footprint of the building had been changed.
41. With the current sketch and industrial report, it was possible to recalculate the PAR. This necessitated another change as the additions to the building had been

assessed as exterior features. For more details please see the State Board revised property record card.

Wall Type

42. 50 IAC 2.2-10-6.1(a)(8) states, "Wall type" represents the exterior wall construction material. Base rates for each use type are given for two (2) exterior wall types with the exception of parking garages, for which there are three (3). The wall types are denoted by the following codes:
- (a) Code "1" denotes concrete block, stucco, tile, wood, aluminum, metal siding, or equal.
 - (b) Code "2" denotes brick, stone, concrete, or equal.
 - (c) Code "3" applies only to open parking garages and denotes metal, concrete, or masonry guard walls three (3) feet to four (4) feet high.
43. Mr. Caron observed that the subject building has walls of corrugated asbestos siding and not concrete. Mr. Caron is mistaken; as the industrial report shows, only one section, 28 feet by 36 feet, has walls of corrugated asbestos.
44. Again using the industrial report and sketch, the wall types have been corrected to reflect those documents.

Framing

45. 50 IAC 2.2-10-5(b)(3) states, "Framing" denotes the proper type of framing. The type of framing must coincide with the base price specifications. The type of framing listed in the column headed basement (B) applies to the framing supporting the first floor, and the type of framing listed in the column headed "First Floor" applies to the framing supporting the roof, regardless of the story height.

46. "Fire resistant" construction means fire resistant structural floor and roof components consisting of formed concrete on steel framing or light concrete, metal deck, flexicore, gypsum, or similar materials on open steel joists and supported by load bearing walls of steel framing. 50 IAC 2.2-10-1.
47. Mr. Caron is correct in stating the building is "fire resistant". The industrial report from the County does show the subject Building #11 as having a flat type, built-up, composition roofing, with metal decking, steel beam and girder construction.
48. The property record card for Building #11 is changed and the additional charge of \$9.25 for the frame adjustment is removed.

Use Type

49. "Use Type" represents the model that best describes the structure. The format and procedures for application are the same for the GCM, GCI, and GCR association groupings. 50 IAC 2.2-10-6 .1(a)(2).
50. Mr. Caron requested the subject property be classified as heavy manufacturing with some utility storage verses the light manufacturing, as it is currently classified. Although, Mr. Caron opined the property is heavy manufacturing with some utility storage, the only difference in the models, 50 IAC 2.2-11-2, is light manufacturing calls for normal floor load capacity and normal vertical column tolerance.
51. There is insufficient evidence to make the change. Mr. Caron did not provide any information as to the load tolerance of the floor. The building is currently assessed as light manufacturing and utility storage. No change is made as a result of this issue.

Age

52. Mr. Caron testified the building was constructed in 1958, but did not provided documentation to substantiate this claim. Taxpayers are expected to make detailed factual presentations to the State Board regarding alleged errors in assessment. *Id.* "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)).
53. There is no change to Building #11 for age of construction.

Summary for Building #11

54. In summary, the changes made to Building #11 are the PAR, the wall type, and the frame type.

Building #13

PAR & Exterior Features

55. 50 IAC 2.2-10-6.1(a)(4) states, "Perimeter Area Ratio (PAR)" is determined by dividing the total linear feet in the effective perimeter of the building by the corresponding area, multiplying that quotient by one hundred (100), and rounding to the nearest whole number. In calculating the effective perimeter of buildings with party walls, include sixty percent (60%) of the party walls with finished interior surface.
56. Mr. Caron is correct in requesting the PAR of subject Building #13 and the additions be figured as a whole. The County has figured the building as a separate entity and added the three additions to the building as exterior features in the amount of \$330,690. There is no worksheet showing how or why the county included these additions as exterior features, or how the amount of \$330,690 was calculated. The County did not appear at the hearing.

57. Mr. Caron provided calculations on the subject building indicating what he opines to be the correct PAR. With the sketch and the industrial report, it was possible to recalculate the Par, including the additions as part of the building and not as exterior features.
58. For all the reasons set forth above, changes in PAR and exterior features have been made to Building #13.

Building #17

Dock floor

59. Mr. Caron testified that the pricing on the dock floor should be \$1.40, not \$2.40, as shown on the property record card.
60. Mr. Caron is correct. The price, as listed from 50 IAC 2.2-11-6, is \$.35 per square foot for a building with a PAR 2. A change is made to the property record card of Building #17 for the dock floor.

Wall Height

61. Mr. Caron requested the wall height be changed from 22' to 20'.
62. Mr. Caron did not provide corroborating evidence as to the height of the wall.
63. Taxpayers are expected to make detailed factual presentations to the State Board regarding alleged errors in assessment. *Id.* "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)).
64. There is no change in the wall height of Building #17.

Use Type

65. "Use Type" represents the model that best describes the structure. The format and procedures for application are the same for the GCM, GCI, and GCR association groupings. 50 IAC 2.2-10-6.1(a)(2).
66. Mr. Caron opined there is an incorrect use type, but there is not present sufficient evidence to warrant a change.
67. For all the reasons set forth above, no change is made to the use type for Building #17.

Partition Adjustment

68. 50 IAC 2.2-10-6.1 (c) states, "Schedule C Base Price Interior Components and Adjustments" is provided to further adjust the base unit rate to account for variations between the structure and the model. Whereas Schedules A and B include structural adjustments, Schedule C adjusts mainly interior and mechanical features."
69. Mr. Caron submitted photographs (Petitioner's Exhibit H, #20 -#22) to show the absence of partitions. Mr. Caron requested a \$.75 deduction.
70. The evidence submitted provided information to allow for a deduction for no partitions; however, the use types are light utility and light warehouse. There is a deduction of \$.45 for the light utility storage area and \$.75 for the light warehouse area.

Special Features

71. There are pricing errors on the County's property record card for the depressed truck well, the ramp, and the mezzanine. The calculations provided by the

County do not use the correct unit costs. The measurements shown in the industrial report can be used to ascertain the correct values for these features. Mr. Caron also provided calculations (Petitioner's Exhibit D) for the above mentioned items. Mr. Caron's calculations included a deduction for an earth floor in the depressed truck area; no evidence was submitted to substantiate this.

72. The property record card is changed for Building #17 concerning the calculations for the Special Features. The unit costs are obtained from 50 IAC 2.2-11-6, Schedule E – Dock Facilities as follows:

Depressed Truck/track excavation

20' x 300' x 3'5" = 21,000 cubic feet @ \$.21 per cubic foot = \$4,410

600 L.F. Depressed Truck/track conc. 3'6" deep

600 @ \$59.06 = \$35,430

Total \$39,840

16' x 80' Unfinished Mezzanine - Lgt. Util/Stg – Fire Resistant

1,280 SF @ \$ 8.55 = \$10,940

Total Special Features = \$50,780

Concrete Truckwell/ramp paving

22' x 130' = 2,680 SF @ \$2.05 = \$5,860

260 L.F. Truckwell/ramp/conc./0 - 3'-6" @ \$43.00 = \$11,180

Total Exterior features = \$17,040

Sprinklers

73. Mr. Caron testified there are sprinklers in only 15% of the building. The industrial report does not state that only 15% of the building is sprinkled. The industrial report merely states that the building is sprinkled. Mr. Caron did not submit sufficient evidence to substantiate his claim.
74. No change is made concerning the sprinklers in Building #17.

Summary for Building #17

75. In summary, the changes made to Building #17 are dock floor pricing, partition adjustment, and special feature pricing.

Building #18

Math Error

76. Mr. Caron requested the property record card be reviewed for a math error in the addition for Building #18. After reviewing the property record card, the State Board agrees there is a math error. The figures are added incorrectly for Building #18. The correct figures are as follow:

$$187,920 + 57,580 + 163,360 = 408,860$$

$$408,860 \times 90\% = 367,970$$

$$367,970 \text{ less } 70\% \text{ depreciation} = 110,390$$

$$110,390 \text{ less } 25\% \text{ obsolescence} = 82,800$$

77. The above changes will be made to the property record card for Building #18 for this issue.

Building # 200

Partition Adjustment

78. Mr. Caron requested an adjustment for lack of partitions for Building #200. Mr. Caron provided a photograph and testimony concerning the issue; it was insufficient to make the requested adjustment.
79. No change is made to the property record card of Building #200 for this issue.

Building #219

Canopy vs. Building

80. Mr. Caron provided a photograph (Petitioner's Exhibit G) of Building #219. The photograph clearly shows the subject building does not fit the model for a Utility/Storage building. 50 IAC 2.2-11-1 (24)(25).

81. Building #219 fits the description of the Industrial Dock Type Canopy.
50 IAC 2.2-11-6, Page 121.

The rate of the canopy is as follows:

\$5.05 + \$1.80 for soffit and lighting = \$6.85 per square foot

101' x 202' = 20,402 SF @ \$6.85 = \$139,750

82. A change is made to the property record card of Building #219 for this issue.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of _____, 2002.

Chairman, Indiana Board of Tax Review