

**STATE OF INDIANA  
Board of Tax Review**

In the matter of the Petition for Review    )  
of Assessment, Form 131                    )    Petition No. : 53-012-97-1-4-00001

Parcel No. : 0080008000

Assessment Year: 1997

Petitioner: George and Judith Russell  
3356 Nugent Blvd.  
Columbus, Indiana 47203

Petitioner Representative: Tax Consultants Inc.  
331 Franklin Street  
Columbus, IN 47201

**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 50% economic obsolescence is warranted due to vacancy.
2. Whether the subject structure's effective age is 1980.
3. Whether Area "A" of the subject structure should receive a negative partition adjustment.

4. 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 of Tax Consultants, Inc. on behalf of George and Judith Russell (Petitioners), filed a Form 131 petition requesting a review by the State. The Form 131 was filed on August 8, 1997 The Monroe County Board of Review's (County Board) Assessment Determination on the underlying Form 130 petition is dated July 15, 1997.
3. Pursuant to Ind. Code § 6-1.1-15-4, an administrative hearing was held on March 11, 1998 before Hearing Officers Joan L. Rennick and Paul Stultz. Testimony and exhibits were received into evidence at that time.
4. Prior to the State issuing a final determination following the administrative hearing on March 11, 1998, Tim Rider, Senior Administrative Law Judge of the State, scheduled a mediation meeting for August 29, 2001 between the parties. Mediation was attempted as a result of decisions issued by the Indiana Tax Court and the Indiana Supreme Court. However, the parties could not agree to meet and thus were not able to reach any agreements on the issues under review.
5. As a result of this failure of the parties to meet and reach any agreements on any of the issues, a second administrative hearing was held on October 29, 2001 before Hearing Officer Joan Rennick. Testimony and exhibits were received into evidence. Milo Smith of Tax Consultants, Inc. represented the Petitioners. Judith Sharp, Monroe County, Assessor represented the County Board. No one appeared to represent Richland Township.

6. At the hearing, the subject Form 131 was made a part of the record and labeled as Board Exhibit A. Notice of Hearing on Petition is labeled Board Exhibit B. In addition, the following exhibits were submitted:

Board Exhibit C - Hearing Sign In Sheet

Board Exhibit D - Withdrawal of Issue Agreement

Petitioner Exhibit 1 – Discussion of Issues

Petitioner Exhibit 2 & 3 – County Board minutes (highlighted)

Petitioner Exhibit 4 – Mass appraisal defined (highlighted) 50 IAC 2.2-1-35

Petitioner Exhibit 5 – Economic obsolescence recognition & causes (highlighted)  
50 IAC 2.2-10-7

Petitioner Exhibit 6 – Photographs labeled “a” through “o” of interior finish and exterior components from 2001 of the subject structure

Petitioner Exhibit 7 – Exterior photograph from 1997 of the subject structure

Petitioner Exhibit 8 – GCK Pricing (highlighted) 50 IAC 2.2-110-6.1

Petitioner Exhibits 9 & 10 – 50 IAC 2.2-13-1, Special Use Commercial Properties

Petitioner Exhibit 11 – State Board Instructional Bulletin 91-8

Petitioner Exhibit 12 – Disclosure form as required by 50 IAC 15-5-5

Respondent Exhibit 1 – Subject’s 1997 property record card (PRC)

Respondent Exhibit 2 – Map of subject property

Respondent Exhibit 3 – Map of subject property

7. The subject property is located at 305 N. Curry Pike, Bloomington, Richland Township, Monroe County.
8. The Hearing Officers viewed the subject property after the first hearing, held March 11, 1998, but the Hearing Officer did not view the subject property after the second hearing held on October 29, 2001.

9. At the second hearing, the parties agreed the year under appeal was 1997 and the assessed values of record were: Land: \$16,400 and Improvements: \$147,020 for a total assessed value of \$163,420.
10. At the second hearing, the Hearing Officer requested additional evidence from Mr. Smith. This information consisted of building plans from the architect and a PRC showing the GCK pricing of the subject structure. Mr. Smith was given until November 13, 2001 to submit the information. Mr. Smith responded in a timely manner. The Hearing Officer's Request for Additional Evidence and Mr. Smith's response are entered into the record and labeled as Board's Exhibit E and Petitioner's Exhibit 13, respectively.

**Issue No. 1 – Whether 50% economic obsolescence is warranted due to vacancy.**

11. The Petitioner testified that the process of establishing obsolescence for vacancy is not uniform and equal throughout the state. Leaving the application of obsolescence to the assessors' sound judgment is totally subjective. The State should establish a vacancy schedule similar to the depreciation schedule. *Smith testimony.*
12. The Petitioner testified that the subject structure has been vacant for 4 years prior to the County Board hearing on May 9, 1997. The taxpayer requests 50% economic obsolescence be applied to the assessment in addition to the 15% obsolescence presently applied (County Board raised the obsolescence factor to 25%). The State should apply 50% economic obsolescence to the assessment because the 25% obsolescence applied by the County Board represents functional obsolescence. *Smith testimony.*
13. The Petitioner stated that a schedule similar to the physical depreciation table should be established by the State to measure obsolescence for vacancy and achieve uniformity throughout the state. The State is required by statute to establish a process to arrive at equal and uniform assessments and the present

system is totally subjective. *Smith testimony.*

14. 50 IAC 2.2-10-7(e)(2)(E) states in part that economic obsolescence (that best describes the subject property) includes, "Termination of the need of the property due to actual or probable changes in the economic or social conditions." The business could no longer make a profit and went out of business. The Petitioner stated that the subject building was vacant for 4 years and the owner's insurance company required them to have 24-hour security for the entire 4 years. *Smith testimony.*
15. Monroe County has a vacancy policy. The County Board gives 50% obsolescence for vacancy of at least one (1) year, if requested by the taxpayer. *Smith testimony & Petitioner Exhibits 2 & 3.*
16. The County Board's representative stated it stands by its decision made at the original hearing in 1998. At that time 25% obsolescence was applied to the assessment and that is all that any structure in Monroe County receives. *Sharp testimony.*

**Issue No. 2 - Whether the subject structure's effective age is 1980.**

**Issue No. 3 - Whether Area "A" of the subject structure should receive a negative partition adjustment.**

17. At the hearing, Mr. Smith withdrew these issues from review by the State Board. Mr. Smith signed a Withdrawal of Issue Agreement (Board Exhibit D) indicating this.

**Issue No. 4 – Whether the subject structure should be valued from the GCK pricing schedule.**

18. The Petitioner stated that the 32,000 square foot (SF) pre-engineered metal building should be priced from the GCK schedule because of the following

characteristics:

- a. All parts were assembled on site, per blueprints found on site;
- b. Cee channels are in the interior walls;
- c. Low pitch roof;
- d. Interior columns and roof beams are tapered;
- e. The bay spacing is 20 feet and all vertical supports are spaced equally;  
and
- f. "X" bracing is in the sidewalls and the plane of the roof.

*Smith testimony.*

19. The Petitioner also stated he determined the subject structure was a pre-engineered building by using the definition found in Instructional Bulletin 91-8 because the 1995 manual had no definition of a pre-engineered building. *Smith testimony & Petitioner's Exhibit 11.*
20. The Petitioner submitted labeled interior and exterior photographs of the subject property. The architect responsible for overseeing the construction of the structure was contacted and will send a letter of his findings after reviewing the plans in his office (That letter was received in a timely manner). *Smith testimony & Petitioner's Exhibit 13.*
21. The real issue, according to the Petitioner, is whether the metal subject building is less expensive to build than a reinforced concrete block exterior structure with 8-inch concrete block interior partitions, as specified in the GCI model. *Smith testimony.*
22. The GCK pricing schedule is utilized for valuing pre-engineered and pre-designed pole buildings that are used for commercial and industrial purposes (50 IAC 2.2- 10-6.1 Pricing). In addition, buildings classified as special purpose design are not valued using the GCK schedule. Special Use Commercial Structures are defined in Rule 13 of the Regulation and states that special use commercial properties are often special purpose buildings that are not readily

adaptable to other uses and are found in the schedule used for restaurants and service stations. The Petitioner stated that the subject building has never been used or is currently used for a restaurant or service station and cannot be considered as a special purpose design building. *Smith testimony & Petitioner's Exhibit 9 & 10.*

23. The Respondent stated that the subject structure does not meet the criteria for GCK pricing which are small, lightweight and inexpensive buildings. The subject structure is a very large metal building that is two (2) plus stories high in some places, indicating a lot of weight bearing on the frame. *Sharp testimony.*

### **Conclusions of Law**

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the Property Tax Assessment Board of Appeals (PTABOA) or issues that are raised as a result of the PTABOA's action on the Form 130 petition. 50 IAC 17-5-3; 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.
10. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. *Whitley*, 704 N.E. 2d at 1119. These presentations should both outline the alleged errors and support the allegations with evidence. “Allegations, unsupported by factual evidence, remain mere allegations.” *Id* (citing *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d. 890, 893 (Ind. Tax 1995)). The State is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *Whitley*, 704 N.E. 2d at

1119 (citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).

11. The taxpayer's burden in the State's administrative proceedings is two-fold: (1) the taxpayer must identify properties that are similarly situated to the contested property, and (2) the taxpayer must establish disparate treatment between the contested property and other similarly situated properties. In this way, the taxpayer properly frames the inquiry as to "whether the system prescribed by statute and regulations was properly applied to individual assessments." *Town of St. John V*, 702 N.E. 2d at 1040.
12. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
13. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence "sufficient to establish a given fact and which if not contradicted will remain sufficient." *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).
14. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer's evidence and justify its decision with substantial evidence. 2 Charles H. Koch, Jr. at §5.1; 73 C.J.S. at § 128. See *Whitley*, 704 N.E. 2d at 1119 (The substantial evidence requirement for a taxpayer challenging a State Board determination at the Tax Court level is not "triggered" if the taxpayer does not present any probative evidence concerning the error raised. Accordingly, the Tax Court will not reverse the State's final determination merely because the taxpayer demonstrates flaws in it).

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

15. Because true tax value is not necessarily identical to market value, any tax appeal that seeks a reduction in assessed value solely because the assessed value assigned to the property does not equal the property's market value will fail.
16. Although the Courts have declared the cost tables and certain subjective elements of the State's regulations constitutionally infirm, the assessment and appeals process continue under the existing rules until a new property tax system is operative. *Town of St. John V*, 702 N.E. 2d at 1043; *Whitley*, 704 N.E. 2d at 1121.
17. *Town of St. John V* does not permit individuals to base individual claims about their individual properties on the equality and uniformity provisions of the Indiana Constitution. *Town of St. John*, 702 N.E. 2d at 1040.

#### **Issue No. 1 – Whether 50% economic obsolescence is warranted due to vacancy.**

18. The structure under review is a 32,000 SF metal building constructed in 1981, in fair condition whose uses included light warehousing, light manufacturing and industrial office.
19. The Petitioner seeks an additional 50% economic obsolescence to be applied to the subject structure over and above the 25% presently applied. It is the Petitioner's contention the 25% already applied to the structure is for functional obsolescence.

#### **The concept of depreciation and obsolescence.**

20. Depreciation is an essential element in the cost approach to valuing property. Depreciation is the loss in value from any cause except depletion, and includes

physical depreciation and functional and external (economic) obsolescence. IAAO Property Assessment Valuation, 153 & 154 (Second Edition, 1996); *Canal Square Limited Partnership v. State Board of Tax Commissioners*, 694 N.E. 2d 801, 806 (citing Am. Inst. of Real Estate Appraisers, *The Appraisal of Real Estate*, 321 (Tenth Edition, 1992)).

21. Depreciation is a concept in which an estimate must be predicated upon a comprehensive understanding of the nature, components, and theory of depreciation, as well as practical concepts for estimating the extent of it in improvements being valued. 50 IAC 2.2-10-7.
22. Depreciation is a market value concept and the true measure of depreciation is the effect on marketability and sales price. IAAO Property Assessment Valuation at 153. The definition of obsolescence in the Regulation, 50 IAC 2.2-10-7, is tied directly to that applied by professional appraisers under the cost approach. *Canal Square*, 694 N.E. 2d at 806. Accordingly, depreciation can be documented using recognized appraisal techniques. *Id.*
23. Functional obsolescence is a loss in value resulting from changes in demand, design, and technology, and can take the form of deficiency, the need for modernization, or superadequacy. IAAO Property Assessment Valuation at 154 & 155.
24. External or economic obsolescence is the loss in value resulting from factors external to the property. IAAO Property Assessment Valuation at 155.
25. Under the cost approach, there are five recognized methods used to measure depreciation, including obsolescence; namely: (1) the sales comparison method, (2) the capitalization of income method, (3) the economic age-life method, (4) the modified economic age-life method, and (5) the observed condition (breakdown) method. IAAO Property Assessment Valuation at 156.

Burden regarding the obsolescence claim.

26. It is incumbent on the taxpayer to establish a link between the evidence and the loss of value due to obsolescence. After all, the taxpayer is the one who best knows his business and it is the taxpayer who seeks to have the assessed value of his property reduced. *Rotation Products Corp. v. Department of State Revenue*, 690 N.E. 2d 795, 798 (Ind. Tax 1998).
27. Regarding obsolescence, the taxpayer has a two-prong burden of proof; (1) the taxpayer has to prove that obsolescence exists and (2) the taxpayer must quantify it. *Clark*, 694 N.E. 2d at 1233. If one or both requirements are not met, obsolescence is denied.

Evidence submitted

28. The Petitioner seeks the application of additional obsolescence (economic) over and above that which has been applied at the local level. It is the Petitioner's contention the obsolescence applied at the local level, is functional obsolescence.
29. To support this position, the Petitioner makes the following statements:
- a. The subject structure had been vacant for four (4) years prior to the County Board hearing;
  - b. Monroe County has a vacancy policy that allows for 50% obsolescence if a structure has been vacant for at least one (1) year;
  - c. Lacking specific instructions from the State, assessors are to recognize the symptoms of obsolescence and to exercise sound judgment which is totally subjective;
  - d. The State does not present any specific instructions defining the amount of obsolescence a property should be granted due to vacancy; and
  - e. This lack of instruction from the State causes non-uniform or unequal assessments from county to county.

30. 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.
31. Vacancy and the amount of time a structure is vacant make up the core of the issue of obsolescence in this appeal. The County Board recognized the existence of obsolescence for the subject structure, and applied a 25% obsolescence factor to the assessment, but did not categorize the obsolescence as either functional or economic. Mr. Smith contends the obsolescence factor applied by the County was for functional causes and the 50% obsolescence requested is in addition, for economic causes (specifically vacancy).
32. Mr. Smith stated that due to the lack of specific instructions by the State to define the amount of economic obsolescence depreciation to be applied to a property that has been vacant for a length of time of one (1) year or more, that any determinations made can not then be uniform or equal from one (1) county to another.
33. Mr. Smith added that for an assessor to recognize the symptoms of obsolescence then to exercise sound judgment in equating their observations of the symptoms to the correct amount of obsolescence is totally subjective.
34. Mr. Smith suggested the State create a “vacancy schedule” similar to the physical depreciation schedules found in the Regulation (50 IAC 2.2-7-12, -9-7 and -11-7) that would be used throughout the state to establish uniformity and equality. Indeed, creating such a schedule in order to determine the amount of economic obsolescence to apply for vacancy sounds simple and might establish uniformity and equality at first glance. However, this theory is flawed because economic factors/conditions impact different usages and different geographic areas in many different ways. It would be impossible to create a schedule that could review each and every facet affecting a specific property. Similar and like

properties could not be lumped together but would need individual attention. For example, on the vacancy issue, is the vacancy caused by a complete economic downturn or could it be caused from unrealistic rents, poor maintenance, or bad business decisions? Is the facility superadequate or is it lacking in required or necessary amenities? Is the location unsatisfactory to most renters?

35. Though the Petitioner feels that there are not any specific directions by the State in determining obsolescence, the Tax Court has determined (as stated in Conclusions of Law ¶¶20 through 25) the definition of obsolescence in the Regulation is tied directly to that applied by professional appraisers under the cost approach. That under the cost approach there are five (5) recognized methods used to measure obsolescence.
36. Mr. Smith did not present any documentation that followed remotely any of the recognized methods to quantify the 50% obsolescence requested. Mr. Smith speaks of subjectivity used by assessing officials due to the lack of specific definitions, yet Mr. Smith uses the same subjectivity in his conclusion that 50% obsolescence is a correct amount.
37. It is also not enough for Mr. Smith to speak of another county's purported obsolescence policy. Mr. Smith declared that Monroe County has an obsolescence policy based on the number of years a structure lies vacant. To support this Mr. Smith presents County Board hearing minutes from Bartholomew County for February 19, 1997 and October 20, 1998. The minutes highlighted by Mr. Smith are for two (2) different properties in Bartholomew County. Neither set of minutes speaks of any obsolescence policy nor do they explain the reasons why in those cases obsolescence was applied.
38. It needs to be noted, the property under review in this appeal is in Monroe County and not Bartholomew County. The fact that one county may have some sort of internal obsolescence schedule does not require other counties to follow

suit. Mr. Smith failed to present any Monroe County Board hearing minutes as they pertained to the purported Monroe County obsolescence policy.

39. Again, regarding obsolescence, the taxpayer has a two-prong burden of proof; (1) the taxpayer has to prove that obsolescence exists and (2) the taxpayer must quantify it.
40. Since the County has applied obsolescence to the subject structure, the County in essence is agreeing with the Petitioner that some sort of obsolescence does exist. In this regard the first prong of the Petitioner's two-prong burden had been met. However, the Petitioner did not meet the second prong of the burden of proof as they failed to quantify the amount of obsolescence sought by using any of the acceptable appraisal methods.
41. For all the reasons set forth above, the Petitioner's request for the application of obsolescence is denied. No change in the assessment is made as a result of this issue.

**Issue No. 2 - Whether the subject structure's effective age is 1980.**

**Issue No. 3 - Whether Area "A" of the subject structure should receive a negative partition adjustment.**

42. At the hearing, Mr. Smith withdrew these issues from review by the State Board. Mr. Smith signed a Withdrawal of Issue Agreement (Board Exhibit D) indicating this.
43. No change in the assessment is made as a result of these issues.



**Issue No. 4 – Whether the subject building should be valued using the GCK pricing schedule.**

44. It is the Petitioner’s contention the subject structure should be priced from the GCK Schedule because it is metal and costs less to build than the current GCI model of a concrete block building with concrete block partitions. The Petitioner further opined the subject building is not used as a special purpose building such as a restaurant or filling station.
  
45. It is the Respondent’s contention the subject structure is not an inexpensive metal building and should be considered a special use building because of the extreme height in a portion of the structure. The County valued the structure accordingly using the GCI pricing schedule.
  
46. The State’s Regulation, 50 IAC 2.2-10-6.1, provides an explanation of how to determine the 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.
  
47. Because of numerous models provided, the base rates are divided into four 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 groupings contain use type descriptions in order to aid in selection. The GCK schedule is the exception.
  
48. “[G]CK does not include use type descriptions. This schedule is utilized for valuing pre-engineered 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).

49. In a nutshell, 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 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.
50. 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.
51. Mr. Smith listed the characteristics of the subject building that are consistent with GCK buildings, presented interior and exterior photos, and tendered a letter from the original architect firm who oversaw the construction. In doing so, the Petitioner made a prima facie case and sustained his burden of proof, thereby shifting the burden to the local officials to rebut the taxpayer's evidence and justify its decision with substantial evidence.
52. The local officials denied the use of the GCK pricing schedule for the following reasons:
  - a. The added height in a portion of the building added extra weight to the framing; and
  - b. The subject building does not meet the criteria for GCK pricing, which is for small, lightweight and inexpensive buildings.

53. The County's position that the height and size of a structure are disqualifying factors is not sufficient to support their denial of the application of the GCK pricing schedule. As stated in Conclusions of Law ¶49, there are only four factors to be considered in determining whether a structure qualifies or not. None of which are the height or the size of a structure.
54. Other than statements made at the hearing, the County does not present any documentation in support of their position. Conclusory statements do not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.
55. For all the reasons set forth above, the Petitioner has met his burden by providing probative evidence of the alleged error. It is determined the subject building is best described by the GCK schedule, and should be priced accordingly. A change in the assessment is made as a result of this issue.

### **Other Findings**

#### **A. Physical Depreciation**

56. The local assessing officials valued the subject structure from the GCI pricing schedule and depreciated it using the 40-Year Life Expectancy Table. Since it has been determined to value the subject structure from the GCK pricing schedule, it is also appropriate to determine the correct life expectancy table to use to determine the physical depreciation.
57. 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 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.

58. 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.
59. Due to the determination to value the subject structure using the GCK pricing schedule, it is also determined the structure qualifies to be depreciated from the 30-Year Life Expectancy Table. 50 IAC 2.2-11-7, Commercial and Industrial Depreciation Tables under the 30-Year Life Expectancy states, "wood joist offices, wood joist manufacturing facilities, low-cost motels, light pre-engineered buildings and all wood joist construction other than apartments."
60. A change in the physical depreciation is made from 30% to 35% resulting in a change in the assessment.

#### B. Grade

61. In the current assessment, the subject building is divided into three sections: light manufacturing, light warehousing, and industrial office. Currently, the structure is graded a "C-2". This grade is based on a comparison to the GCI schedule models.
62. Since the subject building will now be valued using the GCK schedule, a comparison to the GCI models to determine the grade is no longer appropriate. For the assessment to be correct, the grade of the building must be adjusted, based on the GCK descriptions. See *Barth v. State Board of Tax Commissioners*, 699 N.E. 2d 800 (Ind. Tax Court 1998).
63. Based on a comparison to the GCK schedule and descriptions, the subject structure should have a grade of "C". A change in the assessment is made as a result of this change.

### C. Petitioner's GCK priced PRC.

64. At the hearing, the Hearing Officer requested a GCK priced PRC (Petitioner's Exhibit 13) from Mr. Smith. Mr. Smith submitted such a PRC, however Mr. Smith's calculations (pricing) were incorrect for the following reasons:
- a. The square footage of the light warehouse was combined with that of the light manufacturing;
  - b. Base rates and wall height adjustments did not include all adjustments such as sprinkler and air conditioning shown on the County PRC;
  - c. Since a single PAR of 3 was used in determining the base rate, an average wall height (22 feet) was not used in determining the wall height adjustments of the various usages but was based on the wall height of that use; and
  - d. The subject structure was determined to be valued from the GCK schedule, however the physical depreciation was not based on the 30-Year Life Expectancy Table.

### D. County PRC

65. The County PRC has the Special Features added into the total reproduction cost after the Grade Factor has been applied. However, 50 IAC 2.2-10-6.1(g), Step 19 states, "Enter the total whole dollar value of the special features priced below the sketch area." Step 22 states, "Enter the grade and design factor multiplier, which is applied to the total base value to account for variations in quality grade and design." Special Features are added into the reproduction cost prior to the application of the grade and design factor.

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

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Chairman, Indiana Board of Tax Review