

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition Nos.: 29-013-07-1-4-00263
29-013-07-1-4-00264
Petitioner: Hare Holding Corporation
Respondent: Hamilton County Assessor
Parcel Nos.: 11-11-07-00-00-017.101
11-11-07-00-00-017.001
Assessment Year: 2007

The Indiana Board of Tax Review (the Board) issues this determination in the above matters, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated two assessment appeals with the Hamilton County Property Tax Assessment Board of Appeals (the PTABOA) on August 14, 2008.
2. The PTABOA issued notices of its decisions on May 29, 2009.
3. The Petitioner filed Form 131 petitions with the Board on July 13, 2009. The Petitioner elected to have its cases heard according to the Board's small claim procedures.¹
4. The Board issued notices of hearing to the parties dated March 9, 2010.
5. The Board held an administrative hearing on April 14, 2010, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.
6. The following persons were present and sworn in at hearing:

¹ The Board's small claims procedures apply to, *inter alia*, "a parcel of land, as improved, with an assessed value for the land and improvements not in excess of one million dollars." 52 IAC 3-1-2 (a)(2). The properties at issue are assessed at \$6,926,600. A party to an appeal concerning property that does not meet the criteria for small claims may elect to have the petition heard pursuant to the Board's small claims procedures by "(1) requesting so upon filing the appeal petition or by notifying the board, in writing within thirty (30) days of filing his or her petition; and (2) obtaining the written consent to such election from the other parties to the proceeding." 52 IAC 3-1-2 (d). The main differences between the Board's regular procedural rules and its small claims rules lie in its document exchange rules and the small claims procedures' limitation on the issues that can be presented at hearing and the time allotted for presenting evidence at hearing. Here there is no evidence that the Petitioner or the Petitioner's representative obtained written consent to have the petitions heard according to the Board's small claims procedures. The Respondent, however, did not object to the exhibits offered by the Petitioner or the presentation of evidence by the Petitioner's representative. Therefore, the Board views any objection to the application of the Board's small claims procedures to these matters to be waived by the Respondent.

- a. For Petitioner: David Schaadt, Integrity Tax Consulting, Inc.
- b. For Respondent:² Debbie Folkerts, Hamilton County Assessor
Terry McAbee, Hamilton County Deputy Assessor

Facts

- 7. Parcel No. 11-11-07-00-00-017.101 is a 10,417 square foot General Commercial Industrial (GCI) garage on 6.26 acres (Parcel No. 101) and Parcel No. 11-11-07-00-00-017.001 is a 43,768 square foot General Commercial Mercantile (GCM) auto service, utility storage, general office and auto showroom building on 6.31 acres located at 2001 Stoney Creek Road, Noblesville in Noblesville Township, Hamilton County (Parcel No. 001).³
- 8. The ALJ did not conduct an on-site inspection of the property under appeal.
- 9. For 2007, the PTABOA determined the assessed values of the properties to be \$1,023,400 for the land and \$491,600 for the improvements, for a total assessed value of \$1,515,000 for Parcel No. 101; and \$1,597,100 for the land and \$3,814,500 for the improvements, for a total assessed value of \$5,411,600 for Parcel No. 001.
- 10. On its Form 131 Petitions, the Petitioner requested the assessed values of the properties to be \$847,600 for the land and \$382,000 for the improvements, for a total assessed value of \$1,229,600 for Parcel No. 101; and \$1,306,500 for the land and \$3,295,900 for the improvements for a total assessed value of \$4,602,400 for Parcel No. 001. At the hearing, the Petitioner requested a total assessed value of \$5,898,000 for both parcels.

Issues

- 11. Summary of the Petitioner's contentions in support of an alleged error in its assessment:
 - a. The Petitioner contends its property is over-valued based on the property's market value. *Schaadt argument*. In support of this contention, the Petitioner's representative presented a market value analysis that compared the subject property to four auto dealership properties that sold between 2004 and 2008. *Petitioner Exhibit 1 at tab 5; Schaadt testimony*. Mr. Schaadt testified that he first adjusted the sales using the Consumer Price Index to reflect the 2006 valuation date. *Id.* Next he adjusted the sales 1% per year to account for the difference in age between the structures. *Id.* One property, located at 13927 Trade Center Drive, Fishers, Indiana, was assessed at a grade of "B+2," which, Mr. Schaadt argues, demonstrates its quality of construction is better than the subject property.

² Marilyn S. Meighen, Meighen & Associates, P.C. appeared as counsel for the Respondent.

³ The Petitioner's representative presented evidence calculating the value of the two parcels under appeal as one property. Hare Holding Corporation also owns five adjoining parcels totaling another 1.71 acres which are not on appeal to the Board.

Id. Therefore he applied a negative 10% construction adjustment. *Id.* Finally, Mr. Schaadt testified, he adjusted the sale prices for the differences in the properties' land to building ratios and locations. *Id.* Based on his adjustments, Mr. Schaadt determined the price per square foot for each comparable property ranged from \$63.00 to \$97.64, with an average of \$81.18 per square foot. *Id. at tab 3 and 5.* Mr. Schaadt placed the most weight on the two comparable sales located in Hamilton County, which had an average sale price of \$88.00 per square foot. *Id.* Therefore, he estimated the subject property's market value to be \$90.00 per square foot for a total value of \$5,898,000. *Id. at tab 3.*

- b. Mr. Schaadt also contends the land is over-valued compared to the assessed values of similar properties in the area. *Petitioner Exhibit 1 at tab 3; Schaadt testimony.* In support of this position, Mr. Schaadt submitted maps and a chart of the assessed values per acre of land on properties located in the area. *Id. at tab 3 and 4.* According to Mr. Schaadt, the four neighboring properties were assessed at \$249,341 to \$280,269 per acre, while subject property was assessed for an average of \$315,308 per acre.⁴ *Id.* Mr. Schaadt argues in particular that Parcel No. 11-11-05-00-00-011.001 is a corner lot with better street access and is assessed at \$278,407 per acre. *Id.* Thus, Mr. Schaadt, argues the subject property should be assessed for no more than \$278,407 per acre. *Id.*
- c. Finally, the Petitioner's representative argues that the Petitioner's buildings are over-assessed based on their grade, design and construction. *Schaadt argument.* In support of this contention, the Petitioner's representative submitted eight interior and exterior photographs. *Petitioner Exhibit 1 at tab 2.* According to Mr. Schaadt, the building on Parcel No. 001 is a steel constructed "car dealership" with metal siding and eight-foot concrete block walls, steel girders and purlins that should be priced as a General Commercial Industrial (GCI) type-3 industrial structure. *Id. at tab 2 and 3; Schaadt testimony.* Mr. Schaadt contends that if the car dealership is not reclassified to a GCI type-3 industrial structure, then the grade on the current General Commercial Mercantile (GCM) pricing should be reduced to "C". *Id.* The building on Parcel No. 101 is a "body shop" that should be priced from the General Commercial Kit (GCK) schedule. *Id.* Again, Mr. Schaadt argues, if the body shop is not reclassified to a GCK building, then the grade on the current GCM pricing should be reduced to "C". *Id.* Because the county's cost approach has inflated the buildings' reproduction costs, Mr. Schaadt argues, when the trending factor is applied each year by the county, the reproduction cost of the structures is further inflated. *Schaadt argument.*

12. Summary of the Respondent's contentions in support of the assessment:

⁴ Mr. Schaadt does not include 4.3 acres of the Petitioner's land that he claims are unbuildable, including a creek bed and a wooded area on the two parcels under appeal, in his calculation of the properties' average assessed value per acre. *Schaadt testimony.*

- a. The Respondent contends the Petitioner's property is correctly assessed at \$7,298,900. *McAbee testimony; Meighen argument.* The Respondent's witness testified that the property is an auto dealership with a collision center on 14.28 acres of land. *Petitioner Exhibit 1; McAbee testimony.* In support of this contention, the Respondent submitted an aerial map and property record cards. *Petitioner Exhibit 1.* According to Mr. McAbee, the Petitioner owns seven adjoining properties, including the two parcels under appeal. *McAbee testimony.* In determining the value of the Petitioner's property, the county considered all seven parcels as one property. *McAbee testimony.*
- b. The Respondent further contends the Petitioner's property is assessed correctly based on its market value-in-use. *McAbee argument.* According to the Respondent's witness, two auto dealerships located in the area sold in 2004 and 2007 for \$1,850,000 and \$3,763,500 respectively. *Petitioner Exhibit 3; McAbee testimony.* Mr. McAbee testified that he made time adjustments to the two comparable sales using the Consumer Price Index. *Id.* He also made adjustments to the sales based on the properties' land size, grade, trending factor and age. *Id.* According to Mr. McAbee, the average sales price of the comparable properties was \$119.44 per square foot, while the Petitioner's property is assessed for only \$111.38 per square foot. *Petitioner Exhibits 1, 2 and 3; McAbee testimony.* In support of this contention, the Respondent submitted an aerial map, property record cards, the Consumer Price Index, Marshall & Swift comparative cost multipliers and a comparable analysis. *Petitioner Exhibit 1 and 3; McAbee testimony.*
- c. Finally, the Respondent contends that the Petitioner's property is correctly assessed based on the assessed values of comparable properties. *McAbee argument.* In support of this contention, the Respondent submitted aerial maps, property record cards and a comparable analysis. *Respondent Exhibit 2.* According to Mr. McAbee, auto dealerships in Hamilton County were assessed from \$111.30 to \$211.14 per square foot, with an average of \$156.78 per square foot in 2007, while the Petitioner's property is assessed at \$111.38 per square foot. *Petitioner Exhibit 2; McAbee testimony.* Thus, the Respondent's witness argues, the subject property is not over-valued. *McAbee testimony.*

Record

13. The official record for this matter is made up of the following:
 - a. The Form 131 petitions and related attachments.
 - b. The digital recording of the hearing.
 - c. Exhibits:

Petitioner Exhibit 1 –

- Tab 1 - Road map showing Hare Holding Corporation,
- Tab 2 - Eight interior and exterior photographs of Parcel No. 101 and Parcel No. 001,
- Tab 3 - Assessment Analysis and comparable land pricing chart,
- Tab 4 - Four aerial maps,
- Tab 5 - Petitioner’s comparable analysis with supporting documents,
- Tab 6 - Property record cards for Parcel No. 001 and Parcel No. 101,
- Tab 7 - Certified Tax Representative Certification, issued April 3, 2008,
- Tab 8 - The Petitioner’s Tax Representative’s qualifications,

Respondent Exhibit 1 – Hare Holding Corporation’s summary of assessed values, aerial map and property record cards for Parcel No. 1111070000017001, Parcel No. 1111070000017101, Parcel No. 1111070000048000, Parcel No. 1011060000015001, Parcel No. 1011060000015002, Parcel No. 1011070000019001 and Parcel No. 1011070000019003, located at 2001 Stoney Creek Road, Noblesville,

Respondent Exhibit 2 – Comparable assessment analysis, five aerial maps and property record cards for Parcel No. 1111050000011001 located at 9900 Pleasant Street, Noblesville, Parcel No. 1511300302003000 located at 12610 Ford Drive, Fishers, Parcel No. 1511300302002000 located at 12875 Ford Drive, Fishers, Parcel No. 1511300001004000 located on Britton Park Road, Fishers, Parcel No. 1511310013001000 located on State Road 37, Fishers, Parcel No. 1511300037001000 located at 9295 East 131st Street, Fishers, Parcel No. 1511190000019201 located on State Road 37, Fishers, Parcel No. 1713070010009000 located at 9896 Michigan Road, Carmel and Parcel No. 1614080008001000 located at 9750 Gray Road North, Carmel,

Respondent Exhibit 3 – Sales comparison analysis, Consumer Price Index, Respondent’s land adjustments, Marshall & Swift comparative cost multipliers, dated April 2007, Real Property Assessment Guideline – Version A, page 31 and property record cards for Parcel No. 1511190000019201 located on State Road 37, Fishers and Parcel No. 1713070010009000 located at 9896 Michigan Road, Carmel,

Board Exhibit A – Form 131 petitions with attachments,

Board Exhibit B – Notice of Hearing,

Board Exhibit C – Hearing sign-in sheet.

- d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:

- a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
- c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s case. *Id; Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioner failed to provide sufficient evidence to establish a prima facie case for a reduction in the assessed values of its properties. The Board reached this decision for the following reasons:

- a. Indiana assesses real property based on its “true tax value,” which the 2002 Real Property Assessment Manual defines as “the market value-in-use of a property for its

- current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL (MANUAL) (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession has traditionally used three methods to determine a property’s market value: the cost approach, the sales comparison approach, and the income approach to value. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (the GUIDELINES).
- b. A property’s market value-in-use as determined using the GUIDELINES is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property, VI, LLC v. White River Township Assessor*, 836 N.E.2d 501,505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that assumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice (USPAP) often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer actual construction costs, sales information for the subject property or comparable properties and any other information compiled according to generally accepted appraisal practices. MANUAL at 5.
- c. Regardless of the method used to rebut an assessment’s presumption of accuracy, a party must explain how its evidence relates to the property’s market value-in-use as of the relevant valuation date. *O’Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2007, assessment, the valuation date was January 1, 2006. 50 IAC 21-3-3.
- d. The Petitioner first argues that its property is over-valued based on a sales comparable analysis. *Petitioner Exhibit 1; Schaadt testimony*. A sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.” *See* MANUAL at 3. In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- e. In his analysis, Mr. Schaadt compared the sale of four automobile dealerships located in Valparaiso, Vincennes, Carmel and Fishers respectively. *Petitioner Exhibit 1*. Mr. Schaadt testified that he adjusted the sales prices for time based on the Consumer

Price Index⁵ and applied a 1% per year adjustment for the age of each of the structures. *Petitioner Exhibit 1 at tab 5; Schaadt testimony.* Mr. Schaadt also applied a negative 10% adjustment to the property located at 13297 Trade Center Drive to account for the quality of its construction. *Id.* In addition, he applied a -2% to -34% adjustment for the properties' land to building ratios and -11% to 5% adjustment for the facilities' locations. *Id.* Mr. Schaadt, however, failed to support these adjustments. For example, there is no evidence in the record that structures lose 1% of their value each year after their construction.

- f. To the extent Mr. Schaadt supported his adjustments, there was no evidence that his methods or calculations complied with USPAP requirements. An appraiser's assertions are backed by his education, training and experience. The appraiser also typically certifies that he complied with USPAP. Thus, the Board, as the trier-of-fact, can infer that the appraiser used objective data, where available, to quantify his adjustments. And where objective data was not available, the Board can infer that the appraiser relied on his education, training and experience to estimate a reliable quantification. Here, there is no evidence that Mr. Schaadt is a licensed appraiser in Indiana. Nor did he certify that he complied with USPAP in performing his valuation analysis. For example, rather than making a meaningful adjustment for the properties' locations, Mr. Schaadt merely compared the assessed values of the land and the percentage of the assessment attributable to the land. Moreover, Mr. Schaadt used \$315,000 as the value per acre of the Petitioner's property when the actual assessed value per acre averaged \$205,329. More troubling, when Mr. Schaadt compared land to building ratios, he only credited the subject property with having 9.48 acres when the entire parcel has 14.28 acres.⁶ Ultimately, Mr. Schaadt's "sales comparison analysis" has little credibility and fails to raise a prima facie case that the Petitioner's assessment was in error.
- g. The Petitioner's representative also contends the Petitioner's land is over-valued compared to the assessed values of other properties in the area. *Schaadt testimony.* In support of this contention, the Petitioner's representative provided land assessment information for four parcels in the Petitioner's area. *Petitioner Exhibit 1 at tab 3.* This argument, however, was found to be insufficient to show an error in an assessment by the Indiana Tax Court in *Westfield Golf Practice Center, LLC v. Washington Township Assessor*, 859 N.E.2d 396 (Ind. Tax Ct. 2007) (rejecting taxpayer's lack of uniformity and equality claim where the taxpayer showed neither its own property's market value-in-use nor the market values-in-use of purportedly comparable properties). In that case, the Tax Court held that it is not enough for a taxpayer to show that its property is assessed higher than other comparable properties.

⁵ While the analysis is entitled "Assessment Analysis as of March 1, 2007," Mr. Schaadt's purports to have applied the Consumer Price Index adjustment "to account for the listing/sale date versus the 2006 valuation date under review." Thus, there is some evidence that the property was valued to the proper valuation date despite the fact that Mr. Schaadt failed to indicate the effective date of his valuation.

⁶ Even the two appealed parcels totaled 12.57. Mr. Schaadt may have chosen to disregard 4.3 acres of the Petitioner's property because he claims they are unbuildable, but he cannot persuade the Board the properties are over-valued based on an "average" value when he unilaterally excludes 4.3 acres from that calculation.

Id. Instead, the Court found that the taxpayer must present probative evidence to show that its assessed value does not accurately reflect the property's market value-in-use. *Id.*

- h. To the extent that the assessed values of the neighboring parcels may be some evidence that the Petitioner's property is over-valued, the Board finds that the Petitioner's representative again fails to raise a prima facie case that the Petitioner's property is over-valued. According to Mr. Schaadt, the neighboring parcels are assessed for \$255,746 per acre, \$249,341 per acre, \$280,269 per acre and \$278,407 per acre respectively. Mr. Schaadt contends that the subject property's land is assessed for \$315,308 per acre. In his calculation, however, Mr. Schaadt chose to disregard 4.3 acres of the two appealed parcels – and approximately six acres of the total property – when he calculated his “average” assessed value per acre. As the Respondent's evidence shows, the actual assessed value per acre for the Petitioner's property was \$205,329, which falls far below the “average” assessed value per acre of the four neighboring parcels that the Petitioner's representative claims are comparable to the subject property.
- i. Further, the Petitioner's representative contends that the assessor erred in applying the model classification on the “car dealership” on Parcel No. 001 and the “body shop” on Parcel No. 101. *Petitioner Exhibit 1 at tab 3; Schaadt testimony.* Mr. Schaadt contends the car dealership should be reclassified from the GCM schedule to the GCI schedule with a wall type-3.⁷ *Id.* He also contends that the body shop should be reclassified from the GCI schedule to the GCK schedule. *Id.* In *Bender v. Indiana State Bd. of Tax Comm'rs*, 676 N.E.2d 1113 (Ind. Tax Ct. 1997), the Tax Court stated:

Clearly, the assessor must use his or her judgment in determining which schedule to use. It is not a decision automatically mandated by a straightforward finding of fact. The assessor must consider the property in question, including its physical attributes and predominant use, and make a judgment as to which schedule is most appropriate. Just as the assessor must use subjective judgment to determine which base price model to employ with these schedules, so too the assessor must exercise his or her discretion to determine which schedule to use. *See Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 890, 894 (Ind. Tax Ct. 1995)(“Because a building may not conform perfectly with model specifications, a hearing officer must use subjective judgment to decide which model the building most closely resembles.”). *In some cases, this decision will be a closer call than in others, but regardless of the closeness of the judgment, it remains a judgment committed to the discretion of the assessor.*

⁷ The wall type is a descriptive classification indicating the exterior wall construction material. GUIDELINES, ch. 6 at 13. GCI structures have a third wall type option. *Id.* A GCI wall type-3 refers to aluminum, metal, or steel siding on steel framing. *Id.*

676 N.E.2d at 1114-16 (emphasis added). Here, the Petitioner did not offer any evidence to show the GCM and GCI model classifications on the car dealership and body shop were incorrect. Thus, the choice of model was firmly within the discretion of the Assessor.

- j. Mr. Schaadt argues that if the Board elects not to change the model classifications on the car dealership and the body shop, then the grade factor on both buildings should be changed. *Schaadt testimony*. Under Indiana's true tax value system, improvements have various grades based on their design and the quality of material and workmanship. *Sollers Pointe Co. v. Department of Local Government Finance*, 790 N.E.2d 185, 190 (Ind. Tax Ct. 2003). "Construction quality and the resultant quality grade assigned is a composite of characteristics." GUIDELINES, App. E at 3. Although the construction quality of individual components of an improvement may vary, the overall construction quality tends to be consistent for the entire structure. *Id.* at 7. Here, the Petitioner's representative merely argues that the car dealership grade should be reduced from a "B-1" to a "C" and the body shop grade should be reduced from a "C+2" to a "C". *Petitioner Exhibits 3 and 6; Schaadt testimony*. Mr. Schaadt did not offer any detailed description of the actual features of the structures or explain how the features contribute to the overall designs of the car dealership and body shop and the quality of the materials and workmanship. This is insufficient to show an error in the structures' grades. *See Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998) (Conclusory statements, unsupported by factual evidence, are not sufficient to establish an error in an assessment).
- k. Finally, even if the Petitioner had shown that the assessor erred in choosing the models or applying the grade classifications to the car dealership or body shop, the Petitioner failed to show that its assessment did not accurately reflect the market value-in-use of its property. A Petitioner fails to sufficiently rebut the presumption that an assessment is correct by simply contesting the methodology used to compute the assessment. *Eckerling v. Wayne Township Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *P/A Builders & Developers v. Jennings County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (recognizing that the current assessment system is a departure from the past practice in Indiana, stating that "under the old system, a property's assessed value was correct as long as the assessment regulations were applied correctly. The new system, in contrast, shifts the focus from mere methodology to determining whether the assessed value is *actually correct*").
- l. Where a taxpayer fails to provide probative evidence that its assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

16. The Petitioner failed to raise a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Chairman,
Indiana Board of Tax Review

Commissioner,
Indiana Board of Tax Review

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.