

REPRESENTATIVE FOR PETITIONER:

Clifford A. Holleran, Attorney,¹

REPRESENTATIVE FOR RESPONDENT:

Jamie Shepherd, Howard County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Haynes International, Inc.,)	Petition No.: 34-002-06-1-3-00500
)	
)	
Petitioner,)	
)	Parcel No: 34-09-02-152-003.000-002
)	
v.)	
)	
Howard County Assessor,)	County: Howard
)	
Respondent.)	Assessment Year: 2006

Appeal from the Final Determination of the
Howard County Property Tax Assessment Board of Appeals

May 9, 2011

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

¹ The Respondent objected to Mr. Holleran’s representation of the Petitioner on the basis that she was unaware of his appearance until five days prior to the hearing. Mr. Holleran, however, complied with the Board’s rules for representing a party in a Board proceeding. See 52 IAC 2-3-2. To the extent the Respondent feels her case was prejudiced by the appearance of Petitioner’s counsel, she was free to request a continuance from the Board. The Respondent failed to do so and her objection is therefore over-ruled.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. The issue presented for consideration by the Board is whether the assessed value of the Petitioner's property is over-stated.

PROCEDURAL HISTORY

2. The Petitioner initiated its assessment appeal by filing a Form 130 Petition with the Howard County Property Tax Assessment Board of Appeals (PTABOA) on December 27, 2006. The PTABOA issued its assessment determination on February 4, 2010.
3. Pursuant to Indiana Code § 6-1.1-15-1, the Petitioner filed a Form 131 Petition for Review of Assessment on March 18, 2010, petitioning the Board to conduct an administrative review of the property's March 1, 2006, assessment.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. Pursuant to Indiana Code § 6-1.1-15-4 and § 6-1.5-4-1, the duly designated Administrative Law Judge (the ALJ), Carol Comer, held a hearing on February 14, 2011, in Kokomo, Indiana.

5. The following persons were sworn and presented testimony at the hearing:

For the Petitioner:

Donald P. Feicht, Jr., Baden Tax Management,

For the Respondent:

Jamie Shepherd, Howard County Assessor,
Brian Thomas, Ad Valorem Solutions.

6. The Petitioner presented the following exhibits:
- Petitioner Exhibit 1 – Valuation report prepared by Donald P. Feicht, Jr.,
 - Petitioner Exhibit 2 – Summary of Witness Testimony,
 - Petitioner Exhibit 3 – Petitioner’s response to the Respondent’s information request.
7. The Respondent presented the following exhibits:²
- Respondent Exhibit A – Exhibit List,
 - Respondent Exhibit B – Respondent’s Brief,
 - Respondent Exhibit C – 2002 Real Property Assessment Guideline, page 1,
 - Respondent Exhibit D – 2002 Real Property Assessment Guideline, Appendix F, page 4,
 - Respondent Exhibit E – 2002 Real Property Assessment Guideline, pages 17-21,
 - Respondent Exhibit F – Letter approving the 2006 ratio study,
 - Respondent Exhibit G – Article 21, Annual Adjustment Rule,
 - Respondent Exhibit I – Personal property return,
 - Respondent Exhibit J – NAICS from the Haynes International, Inc., website,
 - Respondent Exhibit K – Rule 12, page 9, 1995 Real Property Assessment Manual.
8. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
- Board Exhibit A – Form 131 Petition,
 - Board Exhibit B – Notice of Hearing, dated December 15, 2010.

² The Petitioner’s counsel objected to Respondent Exhibits C-M on the grounds that he did not receive those exhibits prior to the hearing. The Board’s procedural rules require a party to provide all other parties with a list of witnesses and exhibits at least fifteen business days before the hearing. 52 IAC 2-1-7(b)(2). Those rules also require a party to provide all other parties with copies of documentary evidence at least five business days before the hearing. 52 IAC 2-1-7(b)(1). The Respondent contends Exhibits C-M are rebuttal exhibits. The Judge disagreed and sustained the Petitioner’s objection to Exhibits F, I, and K. Respondent’s Exhibits A-E and G are assessment regulations subject to judicial notice and therefore the Judge ruled Exhibits A-E and G admitted into evidence. Similarly, Exhibit J was admitted over objection because it was from the Petitioner’s own website. The Respondent did not offer an Exhibit H, and Exhibit L, or an Exhibit M.

9. The subject property is an industrial facility on a 44.47 acre parcel of land, improved with 494,068 square feet of building space located at 2000 West Deffenbaugh Street in Kokomo.³
10. The ALJ did not conduct an on-site inspection of the subject property.
11. For 2006, the PTABOA determined the assessed value of the subject property to be \$929,400 for the land, and \$5,547,800 for improvements, for a total assessed value of \$6,477,200.
12. The Petitioner contends the assessed value should be \$929,400 for the land, and \$4,247,935 for improvements, for a total assessed value of \$5,177,335, which the Petitioner's representative rounded to \$5,200,000.

JURISDICTIONAL FRAMEWORK

13. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Indiana Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

14. A Petitioner seeking review of a determination of the county Property Tax Assessment Board of Appeals 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 Twp. Assessor*, 805 N.E.2d 475, 478 (Ind.

³ Petitioner Exhibit 1 indicates that the Petitioner's property is comprised of several parcels. The Petitioner, however, only appealed the parcel on which the improvements are located.

Tax Ct. 2003); *see also*, *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

15. 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. Wash. Twp. 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”).
16. 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.

PETITIONER'S CONTENTIONS

17. The Petitioner contends that the assessed value of its property is over-stated for the March 1, 2006, assessment year because the assessment calculations fail to cure physical and functional obsolescence; the assessment calculations do not consider all forms of obsolescence; the assessment calculations were incorrectly trended from 1999 to 2006; and the depreciation does not reflect the actual/effective age of the improvements. The Petitioner presented the following evidence in support of its contentions:
 - A. The Petitioner's witness contends that, because the Petitioner's property is a special-purpose property, the only appropriate means of trending is to use factors other than the sales ratio analysis.⁴ *Feicht testimony*. Mr. Feicht testified that to trend the assessor's cost forward from 1999 to 2005, he calculated his trending factor based on Marshall & Swift. *Id.*; *Petitioner Exhibit 1, pp. 5 and 6*. According to Mr. Feicht, the

⁴ A special-purpose design is an improvement whose design is such that it limits its use to a narrow range of occupancies. Any building designed in such a way that it cannot be easily converted to another use can be considered a special-purpose structure. Although most buildings can be converted to alternative occupancies, conversion of special-purpose structures involves the expenditures of large sums of money and requires design expertise. Examples are steel mills, theaters, auditoriums, and churches. VERSION A - REAL PROPERTY ASSESSMENT GUIDELINE, Glossary, p. 10.

Marshall & Swift cost index for 1999 was 1579.5 and the cost index for 2005 was 1965, resulting in a trending factor of 1.244. *Id.* When he applied the trending factor to the assessor's cost of \$20,122,010, Mr. Feicht argues, the trended reproduction cost new of the Petitioner's improvements was \$25,034,386. *Id.* According to Mr. Feicht, pursuant to the Guidelines, he calculated the weighted actual age of the improvements to be 46 years old.⁵ *Id.* Based on an effective age of 46-48 years and an economic life expectancy of 45 years, he argues, the normal depreciation is 79% under the Guidelines. *Petitioner Exhibit 1, p. 7.* Applying the normal depreciation to the trended reproduction cost new yielded a reproduction cost new less depreciation of \$5,257,221. *Id.*

- B. Mr. Feicht argues that the current assessment is based on reproduction cost new rather than replacement cost new, because the assessor segregated and priced various buildings rather than aggregating the various elements of construction and pricing the cost to replace the facilities.⁶ *Feicht testimony; Petitioner Exhibit 1 p.7.* Mr. Feicht contends that the difference between the reproduction cost and the replacement cost represents excess capital costs for the facility. *Feicht testimony; Petitioner Exhibit 1, p. 8.* According to Mr. Feicht, he calculated the untrended replacement cost new of the buildings to be \$17,795,000. *Id.* Deducting the untrended replacement cost from the assessor's untrended reproduction cost of \$19,150,430, he argues, results in functional obsolescence of \$1,355,430, or 7.1%. *Id.*
- C. Mr. Feicht also contends that the property suffers from economic obsolescence due to underutilization caused by a lack of demand for the company's products. *Feicht testimony; Petitioner Exhibit 1, pp. 8 and 9.* Mr. Feicht testified that he calculated economic obsolescence based on procedures outlined in the assessment manual. *Id.*

⁵ The Petitioner's representative's "position statement" has the following calculation: "Total square feet of R-x improvements 486,534; Total contributory age of improvements 22,253,794; Weighted actual age of R-x improvements $(22,253,794/430,783) = 46$."

⁶ Reproduction cost is the cost of producing an exact replica of a building or improvement using the same or very similar materials, design, and workmanship. Replacement cost is the cost of producing a building or improvement having the same utility, but using modern materials, design, and workmanship. PROPERTY ASSESSMENT VALUATION, Second edition, IAAO, Chapter 7, p. 131.

He compared the industry-wide average capacity utilization to the annual capacity utilization for all manufacturers that operate in the industry and determined there was a 13% over-capacity in the industry. *Id.*

- D. Mr. Feicht contends that correcting the physical and functional depreciation in the assessment, applying a factor for the excess capital costs and a factor for economic obsolescence results in a market value-in-use for the property of \$5.2 million.⁷ *Feicht testimony; Petitioner Exhibit 1, p. 10.*
- E. In response to the Respondent's case, the Petitioner's counsel, Mr. Holleran, argued that the NAICS code shown on Respondent Exhibit J is merely a subset of the code used in Petitioner Exhibit 1.⁸ *Holleran argument.*

RESPONDENT'S CONTENTIONS

18. The Respondent contends that the assessed value of the Petitioner's property is correct. The Respondent presented the following evidence in support of its contentions:
- A. The Respondent's witness, Mr. Thomas, contends that the Petitioner's property's assessment is based on replacement cost, not reproduction cost as the Petitioner's witness claims. *Thomas testimony; Respondent Exhibits C and D.* According to Mr. Thomas, the Real Property Assessment Guidelines state, "The calculation of True Tax Value under this rule uses the cost tables included in this guideline to calculate 'replacement cost new' for the improvements on all classes of property." *Id.* Similarly, the Guidelines state, "Replacement cost eliminates the cost of obsolete

⁷ The Petitioner also argues that the Respondent improperly introduced evidence relating to the taxpayer's profitability at the PTABOA hearing. *Feicht testimony.* However, the Respondent raised no such argument at the hearing before the Board. Once a taxpayer properly invokes the Board's jurisdiction, the proceedings are *de novo*. The taxpayer is not limited to evidence offered at the PTABOA hearing. *See* Ind. Code § 6-1.1-15-4(k) (A party participating in the hearing...is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county board). And the Board owes the PTABOA determination no deference. Thus, evidence presented at the PTABOA hearing, not presented to the Board, is irrelevant. *Id.* Similarly, Mr. Holleran's response to an argument that was never raised before the Board warrants no consideration.

⁸ NAICS is the North American Industry Classification System.

- materials, design, and building techniques. In doing so, most forms of functional obsolescence have been ‘cured’ and do not have to be accounted for in the depreciation estimate. The mass appraisal system outlined in this guideline uses the concept of replacement cost new.” *Id.*
- B. Mr. Thomas further contends that the Petitioner’s valuation witness’ calculation of replacement cost new is flawed because Mr. Feicht purportedly built a replacement facility to show a difference between reproduction and replacement cost, but the facility was already assessed at replacement cost. *Thomas testimony.* Furthermore, Mr. Thomas argues, the property’s current assessment reflects the inutility of the property because the PTABOA applied a 10% functional obsolescence as a result of a previous appeal. *Id.* In response to cross-examination, Mr. Thomas testified that if buildings were attached to one another, the party wall was assessed according to the Guidelines’ value. *Id.* In rebuttal, Mr. Thomas contends, there is significance to having division walls in certain areas, particularly where there are furnaces with extremely high temperatures. *Id.*
- C. In addition, Mr. Thomas argues that Mr. Feicht’s calculation of economic obsolescence is flawed. *Thomas testimony; Respondent Exhibit E.* According to Mr. Thomas, the calculation requires the correct NAICS code and the code Mr. Feicht used is different from the 331491 code shown on the Petitioner’s website. *Id.;* *Respondent Exhibit J.* Mr. Thomas contends that a difference in the codes would change the analysis because the number used correlates with the percentage used in the formula. *Id.* Furthermore, Mr. Thomas argues, the Guidelines state that appraisers sometimes use no external obsolescence adjustments for special-use properties because the appraisal of a special use property is for value-in-use as opposed to value-in-exchange. *Thomas testimony; Respondent Exhibit E.*
- D. Finally, Mr. Thomas contends that Mr. Feicht’s claim that the assessor failed to follow the directives of 50 IAC 21 regarding depreciation and trending is incorrect. *Thomas testimony.* According to Mr. Thomas, 50 IAC 21 does not address depreciation. *Id.; Respondent Exhibit G.* Moreover, Mr. Thomas argues, trending is

either done from sales or from Marshall & Swift data. *Id.* For Howard County, Mr. Thomas testified that the trending data came from sales. *Id.* In addition, he argues, the Department of Local Government Finance approved the county's trending and the sales ratio study for 2006. *Id.* Thus, Mr. Thomas concludes, Howard County's trending was appropriate. *Id.*

ANALYSIS

19. The 2002 Real Property Assessment Manual defines "true tax value" 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 at 2 (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession traditionally has 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. In Indiana, assessing officials generally value real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
20. A property's assessment under the Guidelines is presumed to accurately reflect its true tax value. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. 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 presumption 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 often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information for the subject property or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.
21. Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the subject 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, 2006, assessment, the valuation date was January 1, 2005. 50 IAC 21-3-3.

22. Here, Mr. Feicht used the cost approach to value the improvements on the Petitioner's property, which he contends is a special-purpose property. The cost approach is based on the assumption that potential buyers will pay no more for a given property than it would cost them to purchase an equally desirable parcel of land and construct a substitute improvement. MANUAL at 13. The appraiser first calculates the existing improvements' replacement cost new and then subtracts an amount reflecting the improvements' accrued depreciation. *Id.* Finally, the appraiser adds the value of the land, as if it were vacant, to determine the property's total value. *Id.*
23. Although he refers to the Petitioner's "position statement" as a "cost approach valuation," Mr. Feicht merely re-calculates the mass appraisal version of the cost approach set out in the Guidelines using an alternative trending method and applying additional obsolescence. This the Indiana Tax Court held fails to make a case that a property's assessment should be changed. *See Eckerling v. Wayne Township Assessor*, 841 N.E.2d 764 (Ind. Tax Ct. 2006). In *Eckerling*, Judge Fisher found that it is insufficient to simply dispute the method by which a property is assessed. A Petitioner must show through the use of market-based evidence that the assessed value does not accurately reflect the property's market value-in-use. The Board is unconvinced that labeling a Guidelines-based argument as a "cost approach valuation" is sufficient to overcome the Tax Court's ruling in *Eckerling*. *See also O'Donnell v. Department of Local Government Finance*, 854 N.E.2d 90 (Ind. Tax Ct. 2006). And the Petitioner presented no market evidence in support of its valuation.
24. Even if the Board considered Mr. Feicht's "position statement" a cost approach valuation "compiled according to generally accepted appraisal principles," the Board finds that the valuation fails to persuade it that the Petitioner's property's assessment should be changed. While Mr. Feicht applies a cost index to trend the property's 1999 value to 2005, he failed to show that there was any error in the Assessor's trending. The

Petitioner could have submitted evidence that the county calculated the trending factor incorrectly or that the county relied on too few sales to make a valid trending conclusion, but it did not.⁹ Thus, Mr. Feicht merely presents an alternative method of trending the property. Absent evidence that the Assessor's method was flawed, presenting an alternative method for valuing the property fails to overcome the presumption that the assessment is correct. Further, because Mr. Feicht's calculation of depreciation was related to his alternative trending calculation, the Board similarly holds that Mr. Feicht has failed to sufficiently show the assessor's depreciation calculation was in error.¹⁰

25. In addition, Mr. Feicht's calculation of obsolescence fails to persuade the Board that additional obsolescence should be applied to the property's improvements. The Guidelines state that external obsolescence is calculated by dividing the 1998 utilization rate less the long-term utilization rate by the long term utilization rate. GUIDELINES, App. F, p. 20. Mr. Feicht testified that he calculated obsolescence "based on procedures outlined in the assessment manual." *Feicht testimony*. However, according to the Guidelines, the "first step is to gather utilization data for the most specific SIC code that can be determined." *Id.* The Petitioner's valuation witness used the code 33141, yet the Respondent's evidence shows that the Petitioner identifies its NAICS code as 331491. *Respondent Exhibit J*. Thus Mr. Feicht failed to sufficiently show that he used "the most specific SIC code that can be determined" to calculate the property's economic obsolescence. While there may be no functional difference between the two numbers, it was the Petitioner's burden to show that the formula was applied properly. *See*

⁹ When the Respondent's witness testified that the county's trending was based on market sales, but that he didn't have the list of sales with him, the Petitioner's counsel asked if he was aware that the Petitioner had requested the sales information from the county. Both Mr. Thomas and Ms. Shephard indicated they were not aware any request for the information was made. To the extent that the Petitioner had sought copies of that information, the Petitioner failed to notify the Board it was unable to obtain a copy from the assessor. Thus, the Board will read no inference into Mr. Holleran's questioning.

¹⁰ Additionally, the Board notes that the entirety of Mr. Feicht's analysis was the calculation "Total square feet of R-x improvements 486,534; Total contributory age of improvements 22,253,794; Weighted actual age of R-x improvements $(22,253,794/430,783) = 46$." Mr. Feicht failed to explain how those figures were calculated or where those figures came from. The Board may presume that Mr. Feicht simply recalculated the Assessor's building data using 2006 rather than 1999 to determine each building's age, but the record is unclear. The Board reminds Mr. Feicht that he must walk the Board through every step of his analysis. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004).

Indianapolis Racquet Club, Inc. v. Wash. Twp. 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”). Similarly, Mr. Feicht used 2004 data rather than the 1998 data specified in the Guidelines. While Mr. Feicht may have been “trending” that calculation to the 2005 valuation date to the extent he could, the Board notes that Mr. Feicht failed to explain why using 2004 data was proper.

26. In addition, to show “functional obsolescence,” Mr. Feicht merely compared his replacement cost new calculation to the assessor’s replacement cost new. While Mr. Feicht argues that the assessor used reproduction cost new, the only evidence Mr. Feicht presented was that the assessor valued party walls that may not have otherwise been built had the facility been constructed all at once rather than added on to over time. However, the Respondent’s witness testified that party walls often served a purpose – including segregating a furnace from other areas of the building. Therefore, Mr. Feicht’s bald contention that the assessor valued the property by the reproduction cost rather than replacement cost because the assessor valued the party walls fails to raise a prima facie case that the property was assessed in error. Had Mr. Feicht calculated a reproduction cost new and compared it to his replacement cost new calculation, he may have been able to show the facility suffered from some functional obsolescence. But the Petitioner’s argument here requires the Board to make too many assumptions about the assessor’s calculations to prove that the Board should apply an adjustment for functional obsolescence.
27. Moreover, Mr. Feicht made no attempt to value the land upon which the Petitioner’s improvements are located. The final step in a cost approach valuation is to value the land as if it were vacant and add the improvement value to determine the property’s total value. MANUAL at 13. Here, Mr. Feicht merely added his revised improvement value to the assessed value of the land determined by the assessor. Mr. Feicht failed to show that this is a “generally accepted appraisal practice.”
28. Finally, Mr. Feicht testified that he was being compensated on a contingency basis.

Thus, Mr. Feicht’s compensation was tied to the outcome of this appeal. Contingently

paid expert witnesses are not absolutely prohibited from testifying in Indiana. *Wirth v. State Bd. of Tax Comm'rs*, 613 N.E.2d 874,877 (Ind. Tax Ct.1993). Thus, “the contingent nature of an expert witness’s fee goes to the weight, not the admissibility, of the expert’s testimony.” *Id.* Nonetheless, it is generally inappropriate to pay an expert witness a contingent fee. *Id.* at 876; see also Indiana Professional Conduct Rule 3.4(b) (“The common law rule in most jurisdictions is that...it is improper to pay an expert witness a contingent fee.”). Some states have even held certain contracts for paying an expert witnesses contingent fees void as against public policy. *Wirth*, 613 N.E.2d at 876 (citing, e.g. *Dupree v. Malpractice Research, Inc.* 179 Mich. App. 254, 445 N.W.2d 498 (1989)). As the Indiana Tax Court explained, a contingent witness fee “raises the specter of an auctioning of the truth and casts a pall over the entire fact finding process.” *Id.* at 876-77. While the potential for abuse is less in a bench trial than in a jury trial (*Wirth*, 613 N.E.2d at 877), it is still significant. Thus, Mr. Feicht’s analysis is less credible than a non-contingently paid expert’s valuation analysis would be.

29. Where the Petitioner has not supported its claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

CONCLUSION

30. The Petitioner failed to raise a prima facie case. The Board finds in favor of the Respondent and holds that the property’s 2006 assessment should be \$6,477,200.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value of the Petitioner’s property for the March 1, 2006, assessment date should not be changed.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

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>.