
**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

KATT, LLC,)	Petition Nos.: 29-018-98-3-4-00060
)	29-018-99-3-4-00037
)	29-018-00-3-4-00004
)	29-018-01-3-4-00002
)	
Petitioner,)	County: Hamilton
)	
v.)	Township: Clay
)	
)	Parcel No.: 1609360002004005
)	
HAMILTON COUNTY)	Assessment Year: 1998, 1999, 2000 and 2001
PROPERTY TAX ASSESSMENT)	
BOARD OF APPEALS and CLAY)	
TOWNSHIP ASSESSOR.)	
)	
Respondent.)	
)	

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

October 23, 2003

FINAL ORDER

This order is made regarding the Form 133 Petition for Correction of Error filed by, or on behalf of, the Petitioner. The Indiana Board of Tax Review (the "Board"), being advised in the premises, now finds the following:

Background & Procedural History

Petitioner filed a Petition for Correction of Error (Form 133 Petition) alleging a single issue – that Petitioner’s improvement should have been assessed under the GCK pricing schedule.¹ As a result, the Petitioner seeks a refund of property taxes paid for years prior to 2002.

Analysis

1. The Form 133 Petition may be filed to correct *only* objective errors in an assessment. *O’Neal Steel v. Vanderburgh Property Tax Assessment Bd. of Appeals*, 791 N.E.2d 857 (Ind. Tax Ct. 2003) (citing *U.S. Steel Corp. v. Lake County Property Tax Assessment Bd. of Appeals*, 785 N.E.2d 1209, 1215 (Ind. Tax Ct. 2003)). Accordingly, a taxpayer is prohibited from using a 133 Petition to challenge any part of its assessment that implicates a tax official’s lawful exercise of subjective discretion. *U.S. Steel Corp.*, 785 N.E.2d at 1215.
2. The Indiana Tax Court has ruled that “unlike a determination that an assessor miscalculated the length of an improvement, or that a building component is physically absent from an improvement, the choice of the GCK pricing schedule ultimately turns on judgment calls.” *O’Neal Steel*, 791 N.E.2d 857.
3. Because the choice of pricing schedule is a subjective determination, the decision to assess the improvement under a pricing schedule other than GCK cannot be challenged on a Form 133 Petition. See *O’Neal Steel*, 791 N.E.2d 857; *Bender v. State Bd. of Tax Comm’rs*, 676 N.E.2d 1113, 1114 (1997).

In accordance with the Tax Court’s decision in *O’Neal Steel v. Vanderburgh Property Tax Assessment Bd. of Appeals*, 791 N.E.2d 857 (Ind. Tax Ct. 2003), the Board hereby denies the relief sought by Petitioner.

So ORDERED this 23rd day of October, 2003.

Annette Biesecker, Chairman
Indiana Board of Tax Review

¹ See IND. ADMIN. CODE tit. 50, r. 2.2-11-6 (Sched. A.4) (1996).

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.