

REPRESENTATIVE FOR PETITIONER:  
Larry J. Stroble, BARNES & THORNBURG  
Jennifer A. Seymour, BARNES & THORNBURG

REPRESENTATIVES FOR RESPONDENT:  
Steve Carter, ATTORNEY GENERAL OF INDIANA  
Linda I. Villegas, DEPUTY ATTORNEY GENERAL

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

LACY DIVERSIFIED INDUSTRIES,	)	Petition Nos.: 49-140-96-1-4-00004R
	)	49-140-95-1-4-00034R
Petitioner,	)	
	)	County: Marion
v.	)	
	)	Township: Center
DEPARTMENT OF LOCAL	)	
GOVERNMENT FINANCE,	)	Parcel No.: 1082844
	)	
Respondent.	)	Assessment Years: 1995 & 1996
	)	

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On Remand from the Indiana Tax Court  
Cause No. 49T10-0103-TA-29

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**REFERAL TO CENTER TOWNSHIP ASSESSOR**

The Board having reviewed the decision of the Tax Court in the above matter dated December 5, 2003 (attached and incorporated by reference), and pursuant to Ind. Code § 6-1.1-15-8, refers this matter to the Center Township Assessor to make another assessment consistent with the Tax Court decision, for the following reasons.

## **Facts and Procedural History**

1. The Center Township Assessor (Assessor) assessed Lacy Diversified Industries, LTD. (LDI), at \$629,900 for assessment years 1995 and 1996. In arriving at that value, the Assessor assigned LDI's improvement a "B" grade, determined it was in "good" condition, and awarded it a 15% obsolescence adjustment.
2. LDI appealed the 1995 and 1996 assessments to the Marion County Board of Review (BOR). LDI argued that its grade was excessive, condition rating too high, and that it was entitled to an additional obsolescence adjustment. After conducting hearings on each of the appeals, the BOR denied all requested relief.
3. LDI then appealed to the Board via two Form 131 Petitions for Review of Assessment. After conducting a hearing on the appeals, the Board lowered LDI's condition rating from "good" to "average." The Board denied relief on the issue of grade and obsolescence.
4. On March 21, 2001, LDI initiated an original tax appeal. On October 19, 2002, the Tax Court heard the parties' oral arguments. The issues were: (1) whether the Board erred in assigning a "B" grade to LDI's improvements; (2) whether the Board erred in assigning a condition rating of "average" to the parking garage portion of the building; and (3) whether the Board erred in determining that LDI's improvement was only entitled to a 15% obsolescence adjustment..

## **Discussion of Remanded Issues**

5. The Tax Court held that LDI did not present probative evidence to show that the grade of "B" is incorrect. The Tax Court affirmed the Board's decision with regard to the grade of LDI's improvements.

6. The Tax Court held that LDI did not provide an explanation as to how the specific types of physical deterioration the parking garage was suffering from were not typical to a 70 year-old structure, nor did LDI provide an explanation as to how the physical deterioration was significantly worse than would normally be expected. The Tax Court affirmed the Board's decision with respect to the condition of LDI's improvements.
7. The Tax Court held that LDI's methodology for estimating its entitlement to an additional obsolescence adjustment was valid. The Tax Court held that those calculations indicate that LDI should receive an obsolescence adjustment of at least 39%. The Tax Court determined that LDI made a prima facie case, which was not rebutted. Therefore, LDI was awarded a 39% obsolescence adjustment.
8. The Tax Court affirmed the Board's Final Determination with respect to the issues of grade and condition. The Tax Court reversed the Board's Final Determination with respect to the issue of obsolescence. The Tax Court remanded the case to the Board in order for the Board to instruct the local assessing officials to award LDI's improvements with a 39% obsolescence adjustment.

Therefore, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the Center Township Assessor to make another assessment consistent with the Tax Court decision, this \_\_\_\_ day of \_\_\_\_\_, 2004.

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Commissioner, Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS ON REMANDED CASE -

You may petition for judicial review of this final determination of corrected assessment pursuant to the provisions of Indiana Code § 6-1.1-15-9. 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.