

**STATE OF INDIANA
Board of Tax Review**

In the matter of the Petition for Review)
of Assessment, Form 131) Petition Number: 73-023-97-1-4-00045

Parcel Number: 0419000370

Assessment Year: 1997

Petitioner: Paramount Inns, Inc.
 c/o Lawson J. Clark II
 45 North Pennsylvania Street, Suite 301
 Indianapolis, IN 46204

Taxpayer's Representative: Paul Kropp
 Kropp & Associates
 15 N. Franklin Street, Ste. 210
 Valparaiso, Indiana 46383

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 economic obsolescence depreciation is warranted.

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, Paul Kropp, on behalf of Paramount Inns, Inc. (Paramount), filed a petition requesting a review by the State. The Shelby County Board of Review's (BOR) determination was issued on August 1, 1997. The Form 131 petition was filed on August 6, 1997.

3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was to be held on October 16, 2001, before Hearing Officer Jennifer Bippus. Testimony and exhibits were received into evidence. Paul Kropp represented Paramount. Dan Shaw, the current owner of the property, was also present. Donna Nolley, Shelby County Assessor and Rick Schultz, Shelby County Advisor, represented the Shelby County Assessor's Office.

4. The subject Form 131 petition was made part of the record and labeled as Board's Exhibit A and the Notice of Hearing was labeled Board's Exhibit B.

5. At the hearing, the Petitioner submitted the following documents:
Petitioner's Exhibit A - A copy of the reason economic obsolescence is requested by the Petitioner.
Petitioner's Exhibit B - A copy of hotel data in the Indianapolis area from the Smith Travel Research Company.
Petitioner's Exhibit C - A copy of the average occupancy and average daily rates for a hypothetical hotel and the subject property.
Petitioner's Exhibit D - A copy of 50 IAC 2.2-10-7, Causes of obsolescence.
Petitioner's Exhibit E - A "Poor Management Rebuttal" prepared by Paul Kropp.
Petitioner's Exhibit F - A "Poor Management Rebuttal", part 2, prepared by Paul Kropp.

Petitioner's Exhibit G - A copy of a final determination from the State for Omega/Turtle Creek, LP.

Petitioner's Exhibit H - A page from the final determination from the State for Omega/Turtle Creek, LP, emphasizing the economic obsolescence applied.

Petitioner's Exhibit I - A copy of the quantification of obsolescence requested for the subject property by Paul Kropp.

Petitioner's Exhibit J - A copy of the property record card for a Ramada Inn, located in Indianapolis, receiving 25% obsolescence.

6. At the hearing, the County officials submitted the following evidence:

Respondent's Ex. A - A letter to the County from Paul Kropp dated September 10, 2001, referring to the subject property.

Respondent's Ex. B - A letter to the County from Paul Kropp dated September 14, 2001, referring to the subject property.

7. At the hearing, additional evidence was requested from Mr. Kropp. The Request for Additional Evidence was labeled Board's Exhibit C. Mr. Kropp responded to the Request for Additional Evidence in a timely manner. The response is listed as Petitioner's Ex. K (a), (b), (c), and (d).

8. The Ramada Inn¹ is located at State Road 9 and I-74, Shelbyville, Addison Township, Shelby County.

9. The correct assessed value for 1997 is:

Land: \$48,870	Improvements: \$422,130	Total: \$471,000
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¹ Mr. Kropp variously refers to the business as both a motel and a hotel. The distinction is not important for purposes of this appeal. Unless quoting testimony or documentary evidence, the State will refer to the facility as a motel, to conform to the use-type identified on the property record card.

10. The Hearing Officer did not view the property.

Issue No. 1 - Whether economic obsolescence depreciation is warranted.

11. The Petitioner contended that the motel should receive 25% economic obsolescence depreciation. The BOR determined that the building should receive no obsolescence depreciation.
12. The Ramada Inn in 1997 had a motel occupancy rate well below the local averages, according to the Smith Travel Research Company (Smith Travel). Shelbyville motels are included in the Indianapolis area statistics prepared by Smith Travel. *Kropp Testimony* and Petitioner's Ex. A, B.
13. The Petitioner stated that the property under appeal has an older design with full service amenities, the customers' desires have changed over the years, and the subject property is outdated. 50 IAC 2.2-10-7(e) states that "decreased market acceptability of the product for which the property was constructed or is currently used" can be a cause of economic obsolescence. *Kropp Testimony*.
14. The Petitioner testified that the hypothetical average daily rate for a 100-room motel is listed in Smith Travel as \$55.84. The subject property, based on the area average, only generated 57% of room revenue during 1995/96 that a 100 room mid-price motel in the Indianapolis area could expect. *Kropp Testimony* and Petitioner's Ex. C.
15. The Petitioner stated that Paramount purchased the motel for \$1,250,000 on December 19, 1996. The asking price of the motel was \$2,500,000. Mr. Carl Ritchie, the President of Paramount, updated the motel but was still not able to generate enough business to keep the motel a going entity. Many of the clients were lost permanently to other local motels during the final few years the prior owners managed the property. Mr. Ritchie was not able to get the clientele to return to his facility and therefore the percentage of business remained quite low.

Kropp Testimony and Petitioner's Ex. E, F.

16. In 1998 the State issued a final determination in which Omega/Turtle Creek, LP, a nursing home, was awarded economic obsolescence. Mr. Kropp provided evidence of obsolescence in that hearing similar to the evidence being presented in this appeal. *Kropp Testimony* and Petitioner's Ex. G, H.
17. Using Smith Travel data from 1995/96 average mid-price motels, the Indianapolis market had an average occupancy of 66.3%. The subject property had an average occupancy of 41.5% over the same period. This shows a two (2) year trend of occupancy that is 24.8% below the industry average for the Indianapolis market; therefore, 25% economic obsolescence is requested for the subject property. *Kropp Testimony* and Petitioner's Ex. I.
18. A purported comparable property, the Ramada Inn in Indianapolis located on 42nd Street, received 25% obsolescence during the same time frame as part of the reassessment. In Anderson, a Ramada Inn received 50% obsolescence during this same time period. The competition did receive some breaks from taxes and this is a point to consider during the hearing today. *Kropp Testimony* and Petitioner's Ex. J.
19. Mr. Kropp provided an updated copy of the Power of Attorney from Mr. Ritchie allowing Mr. Kropp to represent him in any open tax year for Petition's 130, 131, 133, and 17T. Petitioner's Ex. K(b).
20. A copy of the Disclosure of Sales Information Form, indicating the sale price of the property was \$1,250,000, was also presented as additional evidence. Petitioner's Ex. K(c).
21. A copy of the comparative revenue statistics report for December 31, 1996 through December 31, 1997 was presented as additional evidence. The report shows the average annual daily room revenue was \$53 in 1996 and \$41 in 1997.

The annual occupancy rates are shown at 18% during 1996 and at 46% during 1997. (Petitioner's Ex. K(d)).

22. The Respondent testified that Mr. Kropp has requested various amounts of obsolescence for the subject property. When mediation was to take place, Mr. Kropp did not appear, but faxed a letter requesting 20% obsolescence, hoping to make the problem "go away". At the hearing today, Mr. Kropp has changed that request to 25% obsolescence. There are no audited certified reports for the subject property with statistics on which to base this 25% obsolescence request. Mr. Kropp is making a broad statement that the occupancy rates, in general, should be used for the hearing today. Respondent contends that Mr. Kropp has presented his opinion only. *Schultz Testimony* and Respondent's Ex. A, B.

23. The Respondent stated that Mr. Kropp did not provide proof of the sale price of \$1,250,000. Mr. Ritchie's purchase of the property may not have been an arms-length transaction. In support of this contention Respondent testified that, the previous owners divorced; they were also selling the property because they had lost the Holiday Inn franchise by not updating the property to code. *Schultz 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.

D. Issue No. 1 - Whether economic obsolescence depreciation is warranted.

18. The Petitioner contends that the motel should receive 25% economic obsolescence depreciation. The BOR determined that the building should receive no obsolescence depreciation.

19. 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.
20. The elements of functional and economic obsolescence can be documented using recognized appraisal techniques. These standardized techniques enable a knowledgeable person to associate cause and effect to value pertaining to a specific property.
21. 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).
22. Regarding obsolescence, the petitioner has a two-prong burden of proof: (1) the petitioner has to prove that obsolescence exists, and (2) the petitioner must quantify it. *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1233 (Ind. Tax 1998).
23. Economic obsolescence depreciation is defined as “obsolescence caused by factors extraneous to the property.” 50 IAC 2.2-1-24.
24. “Economic obsolescence may be caused by, but is not limited to, the following:
 - (A) Location of the building is inappropriate for the neighborhood.
 - (B) Inoperative or inadequate zoning ordinances or deed restrictions.
 - (C) Noncompliance with current building code requirements.
 - (D) Decreased market acceptability of the product for which the property was constructed or is currently used.
 - (E) Termination of the need of the property due to actual or probable changes in economic or social conditions.

(F) Hazards, such as danger from floods, toxic waste, or other special hazards.”
50 IAC 2.2-10-7(e)(2).

25. Mr. Kropp contended that the property experienced economic obsolescence as a result of “[d]ecreased market acceptability of the product for which the property was constructed or is currently used.” (Petitioner’s Exhibit A).
26. Specifically, Mr. Kropp identified the following alleged causes of economic obsolescence: (a) the motel occupancy is well below local averages; (b) the motel sold for less than the true tax value; (c) no new motels with full service features have been constructed in the area; and (d) the motel produced less revenue than a hypothetical average motel. *Id.*
27. For ease of analysis, each of these purported causes of obsolescence will be discussed separately.

The hotel occupancy is well below local averages

28. Mr. Kropp presented data from Smith Travel indicating that average occupancy rates for purported comparable motels were 66.3%. The property under appeal experienced occupancy rates of 41.5%.
29. Mr. Kropp has failed to establish that low occupancy rates were the result of economic obsolescence. In fact, Mr. Kropp identified an alternative reason for the low occupancy rates.
30. “Poor management is certainly a reason the motel was only worth \$1.25 million dollars in the fall of 1996. The many businesses of the prior owner were winding down and a divorce made matters worse.” (Petitioner’s Exhibit E).
31. “I am not pursuing the 1995 appeal because I feel the lack of success of the motel property is largely due to the management of the Reed family [the prior

owners] in the years prior to the sale.” (Petitioner’s Exhibit F).

32. “Although it can’t be quantified, I believe it is reasonable to assume that many clients were lost permanently to other local hotels during the final few years of Reed ownership.” *Id.*
33. Even Mr. Kropp has therefore acknowledged that, as of the December 1996 sale date, low occupancy rates were the result of poor management practices rather than economic obsolescence.
34. Mr. Kropp further acknowledged “many new hotels have been built in Central Indiana in the past 6 years.” (Petitioner’s Exhibit A). Obviously, the marketplace has concluded that a need exists for additional motel rooms, further contradicting Mr. Kropp’s claim of economic obsolescence.
35. “Without a loss of value, there can be no economic obsolescence.” *Pedcor Investments-1990-XIII, L.P. v. State Board of Tax Commissioners*, 715 N.E. 2d 432, 438 (Ind. Tax 1999).
36. Mr. Kropp has failed to present any probative evidence to indicate that the building, rather than the business, has experienced a loss in value.
37. For the reasons above, the State finds that low occupancy rates are not probative evidence of the existence economic obsolescence.

The motel sold for less than the true tax value

38. Mr. Kropp asserted that the property sold for less than true tax value and contended that this is evidence of economic obsolescence
39. Repeating, 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*).

40. Mr. Kropp's contention therefore has no merit.
41. Additionally, Mr. Kropp failed to establish that the sale price reflects the fair market value of the property. Market value may be defined as the "most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and **assuming the price is not affected by undue stimulus.**" *Uniform Standards of Professional Appraisal Practice*, 163 (The Appraisal Foundation, 1998) (Emphasis added).
42. Testimony presented at the hearing indicated that the prior owners were involved in divorce proceedings near the time of the sale. Additional testimony established that the prior owners had lost the Holiday Inn franchise by not maintaining the property to code specifications. Mr. Kropp failed to offer any explanation as to why these factors should not be considered an undue stimulus affecting the sale price. Indeed, Mr. Kropp's own testimony indicated that the property was purchased at a "major discount" (the actual sale price was only 50% of the original asking price). (Petitioner's Exhibit E).
43. For all the reasons above, the sale price is not probative evidence of the existence of economic obsolescence.

No new motels with full service features have been constructed in the area

44. Mr. Kropp contended that "no new hotels have a design similar to the subject property" and the new motels lack the same range of full service features as the property under appeal. (Petitioner's Exhibit A; *Kropp testimony*).
45. Repeating, economic obsolescence is caused by factors extraneous to the property. 50 IAC 2.2-1-24.

46. The design of the motel and full service features within the motel are not extraneous to the property and therefore, by definition, cannot be a cause of economic obsolescence.
47. Further, Mr. Kropp offered no discussion of the features that are being omitted from newer motels, their costs, or any other indication of the marketplace reaction to the purported deficiencies that exist in the property under appeal. Mr. Kropp's unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.
48. For all the reasons above, the presence of full service features is not probative evidence of the existence of economic obsolescence.

The motel produced less revenue than a hypothetical average motel

49. Mr. Kropp presented a calculation purporting to show the revenues that a hypothetical average mid-price motel should generate. This calculation was based on average occupancy and average daily rate data compiled by Smith Travel.
50. This argument is simply a restatement of Mr. Kropp's initial contention concerning low occupancy rates. Rather than addressing low occupancy, this version of the argument focuses on reduced revenues, the result of the low occupancy rates.
51. As discussed in detail, more likely to be the low occupancy and resulting diminished revenues are the result of poor management practices rather than any deficiencies experienced by the property.
52. Additionally, Mr. Kropp offered no explanation for his choice of creating a hypothetical motel rather than comparing the property under appeal to other

comparable existing motels.

53. For all the reasons above, Mr. Kropp's revenue calculation is not probative evidence of the existence of economic obsolescence.
54. Although not identified as a cause of obsolescence, Mr. Kropp introduced a copy of a prior State Final Determination in which he used a similar argument (vacancy rates in a nursing home) to establish the existence of obsolescence.
55. However, this Final Determination clearly states that standards and policies set by local officials were a factor in the decision. There was no evidence that the issue of local standards is an applicable factor in this appeal brought by Paramount. Further, as discussed, Mr. Kropp has acknowledged that the vacancy rates in Paramount's motel were the result of factors other than economic obsolescence. This prior State Final Determination is therefore of no probative value.
56. For all the reasons above, Paramount has failed to establish the existence of economic obsolescence, as required by the first prong of the two-prong test articulated in *Clark*.
57. Assuming, arguendo, that economic obsolescence does exist in the motel does not resolve this appeal. Paramount is also required to quantify the amount of obsolescence.
58. "There are two methods of measuring external [economic] obsolescence: (1) capitalizing the income or rent loss attributable to the negative influence; and (2) comparing comparable sales of similar properties, some exposed to the negative influence and others not." *International Association of Assessing Officers Property Assessment Valuation*, 173 (2nd ed. 1996).
59. "The *capitalization of income method*: capitalizes the income of subject property

into an estimate of value, with site value deducted; indicated improvement value is compared with estimated cost new to provide indication of improvement value remaining.” *Id* at 183.

60. “The *sales comparison method*: estimates cost new of subject property; comparable properties are found and site values deducted; contributory improvement values remain; contributory improvement values are deducted from cost for each sale property, yielding measure of accrued depreciation; accrued depreciation figure is converted to percentage and applied to subject property.” *Id.*
61. Mr. Kropp presented data from Smith Travel indicating that average occupancy rates for purported comparable motels were 66.3%. The property under appeal experienced occupancy rates of 41.5%. Mr. Kropp contended that the difference between these two rates represented 25% obsolescence. (Petitioner’s Exhibit I).
62. Mr. Kropp’s method of quantifying economic obsolescence therefore does not conform to generally recognized standards of assessment and appraisal practice.
63. Further, as discussed, Mr. Kropp acknowledged that the vacancy problem experienced by Paramount was attributable to factors other than economic obsolescence.
64. Mr. Kropp also provided evidence of two purported comparable Ramada Inns in other counties, one receiving 25% obsolescence and the other 50% obsolescence. However, Mr. Kropp did not explain why the properties received the obsolescence, nor did Mr. Kropp explain the manner in which the properties are comparable. Without any foundation, this evidence has no probative value. Mr. Kropp’s unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.

65. Paramount has failed to quantify its claim for economic obsolescence, as required by the second prong of the two-prong test articulated in *Clark*.
66. For all the reasons above, the Petitioner failed to meet its burden in this appeal. Accordingly, no change is made to the assessment as a result of this issue.

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.

Chairman, Indiana Board of Tax Review