STATE OF INDIANA
Board of Tax Review

OAKMONT HOMEOWNERS ASSOCIATION, INC.	)	On Appeal from the Marion County Property Tax Assessment Board of Appeals
Petitioner,	)	
	)	Petition for Review of Assessment, Form 131
v.	)	Petition No. 49-800-98-1-5-00016
	)	Parcel No. 8057257
MARION COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS And WASHINGTON TOWNSHIP ASSESSOR	)	
Respondents.	)	

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 the planned unit development should be defined as Good rather than Very Good.

2. Whether the homeowners association land was correctly assessed.

3. Whether the land should receive a negative influence factor.

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 IC 6-1.1-15-3, Oakmont Homeowners Association, Inc. (Oakmont) filed a petition requesting a review by the State. The Marion County Property Tax Assessment Board of Appeals (PTABOA) issued its final determination on February 25, 2000. The Form 131 petition also was filed on February 25, 2000.

3. Pursuant to IC 6-1.1-15-4, a hearing was held on December 4, 2001, before Hearing Officer Ronald Gudgel. Testimony and exhibits were received into evidence. William J. Dale, Jr., Oakmont's treasurer, and James K. Gilday, Attorney at Law, represented Oakmont. A. Peter Amundson represented the Washington Township Assessor's Office. Although formal written notice of the hearing was mailed to the Marion County Assessor's Office, no one appeared on its behalf.

4. At the hearing, the subject Form 131 petition was made part of the record and labeled Board's Exhibit A. In addition, the following exhibits were submitted to the State Board:
   Petitioner's Exhibit 1 – Memorandum in support of position.
   Petitioner's Exhibit 2 – Survey map of Oakmont.
   Petitioner's Exhibit 3 – Copies of portions of the Marion County Land Order.
   Petitioner's Exhibit 4 – Declaration of Covenants and Restrictions of Oakmont.
   Petitioner's Exhibit 5 – Land category characteristics/classifications prepared by Mr. Dale.
   Petitioner's Exhibit 6 – Invoices from Leslie Coatings, Inc. for tennis court repairs.
   Petitioner's Exhibit 7 – Property record card for the parcel under appeal.
   Petitioner's Exhibit 8 – Eight photographs of the tennis court area.

Petitioner's Exhibit 9 – Six photographs of the drive leading to the tennis court.
Petitioner's Exhibit 10 – Five photographs of 86th Street.
Petitioner's Exhibit 11 – Four photographs of the utility easement strip.
Petitioner's Exhibit 12 – Twelve photographs of the concrete drive.

Respondent's Exhibit 1 – Copies of portions of the Marion County Land Order and General Guidelines for assessment of residential land.
Respondent's Exhibit 2 – Map showing the area within a one-mile radius of Oakmont Lane.
Respondent's Exhibit 3 – Property record cards of purported comparable properties.

5. The property is located at 623 W. 86th Street, Indianapolis, Washington Township, Marion County.

6. The hearing officer did not view the property.

Issue No. 1 - Whether the planned unit development should be defined as Good rather than Very Good.

7. Oakmont contended that the planned unit development (PUD) should be reclassified from Very Good to Good.

8. Mr. Dale testified that it took approximately ten years to sell the eleven lots contained in Oakmont, with the final two lots being sold at a discount. Mr. Dale further testified that residents have complained about the lack of landscaping and that consultations with a landscape architect had produced no solutions to a continuing drainage problem.

9. Mr. Dale also testified that the elevation of 86th Street creates an obstructed view when leaving Oakmont, as well as causing additional problems of ingress and

egress during winter driving conditions. Additionally, Mr. Dale contended that Oakmont lacks several features found in a Very Good PUD, including the following: a natural or man-made lake, more than two parking spaces per unit, a swimming pool, outdoor recreational areas in addition to the tennis court, athletic facilities with locker and shower areas, an elaborate clubhouse, meeting rooms, and sidewalks to all areas.

10. In support of the Township's position, Mr. Amundson introduced copies of property record cards from five horizontal property regimes and one other homeowners association located near Oakmont. Mr. Amundson contended that the land values of these purported comparable properties support the land value assigned to Oakmont.

11. In further support of the Township's position, Mr. Amundson identified features present in Oakmont that are included in both the Very Good and Good category, such as tennis courts and concrete roads. Additionally, Mr. Amundson identified schools, shopping, and major roads located in close proximity to Oakmont.

Issue No. 2 - Whether the homeowners association land was correctly assessed.

12. The PTABOA determined that the land should be assessed using the Very Good base rate of $6.10 per square foot of titled/deeded land under the unit and $1.22 per square foot of excess land. Oakmont contended that the land should be valued at 20% of the Good base rate for both titled/deeded land under the unit and excess land.

13. Oakmont introduced a copy of the relevant portion of the Marion County Land Order, which instructs the local taxing officials to "use 20% of base rate applied to the specific geographic area" when assessing homeowners association land. (Petitioner's Exhibit 3, Marion County Land Order, page 2).

14. Mr. Amundson contended that the excess land was correctly assessed at 20% of the base rate for titled/deeded land under the unit, in accordance with the Marion County assessing guidelines.

15. Mr. Amundson introduced General Guidelines for Assessment of Residential Land, a document prepared by the township assessors of Marion County. This document, in relevant part, includes the following guideline for the assessment of PUDs:
"Recommend a per square foot value be applied, using the formula, all areas under improvements (living unit, living unit 2nd floor overhangs, attached garages, porches & patios), shall be assessed as 'primary' site. Areas outside the above shall be assessed as 'secondary' site at a rate 20% of primary value." (Respondent's Exhibit 1).

Issue No. 3 - Whether the land should receive a negative influence factor.

16. Oakmont contended that the parcel should receive a 60% negative influence factor. The PTABOA determined that the land should receive no influence factor.

17. Mr. Dale contended that the factors supporting the application of a negative influence factor include the following: an electric utility easement; a drainage ditch; 86th Street has been artificially built-up; poor drainage; and various homeowner association covenants and restrictions.

18. Mr. Gilday explained that the request for a 60% negative influence factor was determined in the following manner: "Well, we looked at what we thought the value of the land is in a very restricted sense, not having any market, and we came up with these approximations."

19. Mr. Amundson contended that the Land Order values accounted for items such as easements. He further contended that the homeowners association chose to create covenants, and therefore the parcel should not require a negative

influence factor.

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. See also the Forms 130 and 131 petitions authorized under Ind. Code §§ 6-1.1-15-1, -2.1, and –4. 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. See 50 IAC 17-6-3. "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. One manner for the taxpayer to meet its burden in the State's administrative proceedings is to: (1) identify properties that are similarly situated to the contested property, and (2) establish disparate treatment between the contested property and other similarly situated properties. *Zakutansky v. State Board of Tax Commissioners,* 691 N.E. 2d 1365, 1370 (Ind. Tax 1998). 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.

Issue No. 1 - Whether the planned unit development should be defined as Good rather than Very Good.

18. Oakmont contended that the PUD should be reclassified from Very Good to Good.

19. The Marion County Land Order describes PUDs in categories of Excellent/Very Good, Very Good, Very Good/Good, Good, Good/Average, Average, Average/Fair, Fair, Fair/Poor, and Poor. (Petitioner's Exhibit 3, Marion County Land Order, page 154). The relevant portion of the Land Order contains the following definitions:

"Very Good: Extremely desirable secluded location with wooded, rolling terrain that has scenic features such as a natural or man-made lake. Area has excellent landscaping. There is easy access to major roads, schools and shopping areas. Features include: more than 2 parking spaces per unit, carports and/or garages, outdoor recreational areas, swimming pool, tennis courts, elaborate club house with office, meeting rooms and athletic facilities including locker and shower area, a security entrance, good quality roads and sidewalks to all areas, and abundant exterior lighting.

Good: Attractive and desirable with good landscaping, level to rolling partially wooded terrain and could possibly include a man-made lake. Has many of the

same features as the very good classification. Features include: 2 parking spaces per unit, some carport areas, asphalt or concrete roads, sidewalks to units, lighted streets, clubhouse and office. Recreational areas may include a swimming pool and tennis courts." (Petitioner's Exhibit 3, Marion County Land Order, page 1).

20. As discussed, the definitions for Very Good and Good are similar, with several overlapping features. Clearly, the definitions are guidelines to assist assessors in determining the category that best describes the PUD; it is unlikely that any PUD would possess every feature described in any of the categories. Mr. Dale however, identified several specific features included in the Very Good category that are not present in Oakmont.

21. For example, Mr. Dale identified the following variations from the Very Good description:

(a) Very Good describes an "extremely desirable" location. Contradicting this description, undisputed testimony presented by Mr. Dale indicated that it took approximately ten years to sell the eleven lots contained in Oakmont, with the final two lots being sold at a discount.

(b) A Very Good location has "excellent landscaping." Mr. Dale's testimony and photographs indicate an on-going problem with landscaping as a result of poor drainage that restricts the type and quantity of trees and shrubbery that may be planted. Mr. Dale testified that residents have complained about the lack of landscaping and that consultations with a landscape architect had produced no solutions.

(c) A Very Good location has "easy access to major roads." Unquestionably, Oakmont has direct access to 86th Street. Again, however, testimony and photographs indicate that the elevation of 86th Street creates an obstructed view when leaving Oakmont. Additional testimony indicated this elevation creates additional problems of ingress and egress during winter driving conditions.

(d) Undisputed testimony indicated that Oakmont lacks a natural or man-made

lake, more than two parking spaces per unit, a swimming pool, outdoor recreational areas in addition to the tennis court, athletic facilities with locker and shower areas, an elaborate clubhouse, meeting rooms, and sidewalks to all areas. Each of these is a feature included in the description of Very Good.

22. The evidence presented by Oakmont is therefore sufficient to sustain its burden of proof regarding the alleged error in assessment.

23. As discussed, 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 their decision with substantial evidence.

24. In support of the Township's position, Mr. Amundson introduced copies of property record cards from five horizontal property regimes and one other homeowners association located near Oakmont. Mr. Amundson contended that the land values of these purported comparable properties support the land value assigned to Oakmont.

25. Merely characterizing properties as comparable is insufficient for appeal purposes. The Respondent is required to present probative evidence that the purported comparable properties it offers are, in fact, comparable to the subject property. No such foundation was offered at the hearing. Mr. Amundson presented no explanation as to the manner in which PUD units are comparable to horizontal property regimes. Similarly, Mr. Amundson offered no comparison of common features or amenities among the properties. Merely presenting a property record card falls far short of the requirement to present "detailed evidence that the characteristics, features, and location of the two facilities were similar." *Western Select Properties, L. P. v. State Board of Tax Commissioners*, 639 N.E. 2d 1068, 1074 (Ind. Tax 1994).

26. In further support of the Township's position, Mr. Amundson identified features present in Oakmont that are included in both the Very Good and Good category,

such as tennis courts and concrete roads. Additionally, Mr. Amundson identified schools, shopping, and major roads located in close proximity to Oakmont.

27. As discussed, however, Oakmont lacks several features specifically identified in the description of a Very Good PUD. The local taxing officials have therefore failed to present substantial evidence in support of their position to rebut the prima facie case made by Oakmont.

28. In view of the above, it is determined that the PUD is best described as being in the Good category. There is a change in the assessment as a result of this issue.

Issue No. 2 - Whether the homeowners association land was correctly assessed.

29. The PTABOA determined that the land should be assessed using the Very Good base rate of $6.10 per square foot of titled/deeded land under the unit and $1.22 per square foot of excess land. Oakmont contended that the land should be valued at 20% of the Good base rate for both titled/deeded land under the unit and excess land.

30. As indicated by the property record card, there is no dispute that the parcel is owned by the Oakmont Homeowners Association, Inc.

31. The Marion County Land Order instructs the local taxing officials to “use 20% of base rate applied to the specific geographic area” when assessing homeowners association land. (Petitioner’s Exhibit 3, Marion County Land Order, page 2).

32. Instructions contained in the Land Order are sufficient to sustain Oakmont’s burden of proof regarding the alleged error in assessment.

33. As discussed, 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 their decision with substantial evidence.

34. Mr. Amundson contended that the excess land was correctly assessed at 20% of the base rate for titled/deeded land under the unit, in accordance with the Marion County assessing guidelines.

35. In support of his position, Mr. Amundson introduced General Guidelines for Assessment of Residential Land, a document prepared by the township assessors of Marion County. This document, in relevant part, includes the following guideline for the assessment of PUDs:
"Recommend a per square foot value be applied, using the formula, all areas under improvements (living unit, living unit 2nd floor overhangs, attached garages, porches & patios), shall be assessed as 'primary' site. Areas outside the above shall be assessed as 'secondary' site at a rate 20% of primary value." (Respondent's Exhibit 1).

36. The portion of the Land Order dealing with PUDs in Washington Township reflects this formula. For example, in this appeal, the base rate for primary land (titled/deeded land under the unit) for PUDs in the Very Good category was determined to be $6.10 per square foot. The base rate for secondary (excess) land was determined to be 20% of this amount, or $1.22 per square foot.

37. Ending the analysis at this point, however, fails to recognize the distinction made in the Land Order between PUD land owned by individuals and PUD land owned by homeowners associations.

38. The Land Order is clear: PUD homeowners association land must be assessed using 20% of the base rate. Absent this additional reduction, PUD land owned by individuals and PUD land owned by homeowners associations would be assessed in the same manner. Such a result is clearly contrary to the plain

meaning of the Land Order instructions concerning the assessment of PUD homeowners association land.

39. The local taxing officials have failed to present substantial evidence to rebut Oakmont's contention that the homeowners association land should be assessed using 20% of the base rate.

40. In view of the above, it is determined that the homeowners association land should be priced at 20% of the base rates contained in the land order for both titled/deeded land under the unit and excess land. As previously discussed, the PUD is best described as being in the Good category. Therefore, in accordance with the Marion County Land Order, the land value is reduced to $0.91 per square foot of titled/deeded land under the unit ($4.55 x 20% = $0.91) and $0.18 per square foot of excess land ($0.91 x 20% = $0.18). There is a change in the assessment as a result of this issue.

Issue No. 3 - Whether the land should receive a negative influence factor.

41. Oakmont contended that the parcel should receive a 60% negative influence factor. The PTABOA determined that the land should receive no influence factor.

42. The Marion County Land Valuation Commission was required to collect sales data and land value estimates to create a Land Order. This Land Order identified a range of land values that the assessor used as a base rate for determining the True Tax Value of property.

43. Land Order values may be adjusted by the application of influence factors. An influence factor is defined in 50 IAC 2.2-4-10 as "a condition peculiar to the lot that dictates an adjustment to the extended value to account for variations from the norm." Influence factors may be applied for the following conditions: topography; under improved property; excess frontage; shape or size; a misimprovement to the land; restrictions; and other influences not listed

elsewhere.

44. To prevail in an appeal for the application of a negative influence factor, the Petitioner must present both "probative evidence that would support an application of a negative influence factor and a quantification of that influence factor at the administrative level." *Phelps Dodge v. State Board of Tax Commissioners*, 705 N.E. 2d 1099 (Ind. Tax 1999).

45. Mr. Dale contended that the factors supporting the application of a negative influence factor include the following: an electric utility easement; a drainage ditch; 86th Street has been artificially built-up; poor drainage; and various homeowner association covenants and restrictions.

46. Merely identifying features that are present on a parcel is inadequate to support the application of a negative influence factor. As discussed, a negative influence factor is an adjustment to the value of the parcel.

47. Oakmont is therefore required to demonstrate that the alleged deficiencies create a loss in value of the parcel in the marketplace. Oakmont presented no such evidence to establish that the parcel has experienced any loss in value.

48. For example, Oakmont introduced no evidence of any comparable properties that have received a negative influence factor for similar features. Additionally, Oakmont presented no evidence, such as an appraisal, from a disinterested party to substantiate its claim.

49. Instead, Oakmont relied on the assertions of Mr. Dale. Unsubstantiated conclusions, however, do not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.

50. Oakmont has failed to present probative evidence that would support an application of a negative influence factor, as required by the first prong of the

two-prong test articulated in *Phelps Dodge*.

51. Even assuming, arguendo, that Oakmont has presented probative evidence to support the application of a negative influence factor does not resolve this issue. Oakmont is also required to quantify its claim.

52. Once again, Oakmont offered no market data or calculation to quantify its contention of loss. Instead, Mr. Gilday explained that the request for a 60% negative influence factor was determined in the following manner: "Well, we looked at what we thought the value of the land is in a very restricted sense, not having any market, and we came up with these approximations."

53. As discussed, the unsubstantiated conclusions of Oakmont's representatives do not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.

54. Oakmont has therefore failed to quantify its claim for a 60% negative influence factor, as required by the second prong of the two-prong test articulated in *Phelps Dodge*.

55. 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.

Summary of Final Determination

Determination of ISSUE 1: *Whether the planned unit development should be defined as Good rather than Very Good.*

56. The Petitioner met its burden on this issue. There is a change in the assessment as a result of this issue.

Determination of ISSUE 2: *Whether the homeowners association land was correctly assessed.*

57. The Petitioner met its burden on this issue. There is a change in the assessment as a result of this issue.

Determination of ISSUE 3: *Whether the land should receive a negative influence factor.*

58. The Petitioner failed to meet its burden on this issue. There is no change in 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.

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Chairman, Indiana Board of Tax Review