

REPRESENTATIVES FOR PETITIONER: Ralph Campbell, Property Valuation Services, Inc.

REPRESENTATIVES FOR RESPONDENTS: Lori Harmon, Hamilton County Deputy Assessor, and James B. Pee, Noblesville Township Deputy Assessor.

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

PAUL GOEKE,)	
)	Petition for Review of Assessment, Form 131
Petitioner)	
)	Petition No. 29-012-01-1-4-00001
v.)	County: Hamilton
)	Township: Noblesville
HAMILTON COUNTY PROPERTY)	Parcel No. 1007320000015000
TAX ASSESSMENT BOARD)	Assessment Year: 2001
OF APPEALS, and NOBLESVILLE)	
TOWNSHIP ASSESSOR)	
)	
Respondents)	

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

[November 26, 2002]

FINAL DETERMINATION

The Indiana Board of Tax Review assumed jurisdiction of this matter as the successor entity to the State Board of Tax Commissioners, and the Appeals Division of the State Board of Tax Commissioners. For convenience of reference, each entity is without distinction hereafter referred to as the "Board".

The Board having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Issue

1. The issue presented for consideration by the Board was:

Whether the subject structure should be valued from the GCK pricing schedule rather than the GCM pricing schedule.

Procedural History

2. Pursuant to Ind. Code § 6-1.1-15-3 Ralph Campbell, Property Valuation Services, Inc. filed a Form 131 petition on behalf of Paul Goeke (Petitioner), petitioning the Board to conduct an administrative review of the above petition. The Form 131 petition was filed on April 5, 2002. The Hamilton County Property Tax Assessment Board of Appeals (PTABOA) Final Determination on the underlying Form 130 petition was issued on March 8, 2002.

Hearing Facts and Other Matters of Record

3. Pursuant to Ind. Code § 6-1.1-15-4 a hearing was held on September 5, 2002 at the Hamilton County Judicial Center, Noblesville, Indiana before Dalene McMillen, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Ind. Code § 6-1.5-5-2.
4. The subject property is an auto service/commercial garage/utility storage building located at 3477 East Conner Street, Noblesville, Noblesville Township, Hamilton County.

5. At the hearing, the parties agreed that the year under appeal is 2001 and the assessed values under appeal, as of the March 1, 2001 assessment date are:

Land: \$124,300 Improvements: \$615,400 Total: \$739,700

6. The ALJ did not conduct an on-site inspection of the subject property.

7. The following persons were present at the hearing:

For the Petitioner:

Ralph Campbell, Property Valuation Services, Inc.

For the Respondent:

Lori Harmon, Deputy Assessor, Hamilton County

James Pee, Deputy Assessor, Noblesville Township

8. The following persons were sworn in as witnesses and presented testimony:

For the Petitioner:

Ralph Campbell¹

For the Respondent:

Lori Harmon

James Pee

9. The following exhibits were presented:

For the Petitioner:

Petitioner's Exhibit 1 – Includes the following: a copy of Section III of the Form 130 appeal (Township Assessor/Petitioner Conference); a copy of a “work order” from United Structures of America, Inc. on the 150’ x 50’ section,

¹ Mr. Campbell testified that he is being compensated on a contingency basis. Compensation based upon the outcome of a case may result in improper motivation of a witness and may adversely affect the reliability of certain testimony. It is for this reason that the Board will take the fee arrangement between Mr. Campbell and the Petitioner into consideration when weighing the testimony of this witness. (*Wirth v. State Board of Tax Commissioners*, 613 N.E. 2d 874 (Ind. Tax 1993); *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230 (Ind. Tax 1998)).

dated November 7, 2001; six (6) photographs of the subject structure; and Property Valuation Services' proposed pricing

Petitioner's Exhibit 2 – A copy of the Final Determination (Form 118) for Larry Reynolds, dated July 1, 2002

For the Respondent:

Respondent's Exhibit 1 – Includes the following: a copy of Noblesville Township Assessor's response to the issue; a copy of Paul Goeke's property record card (PRC); a copy of a State Board of Tax Commissioner's memorandum, dated August 25, 1996; a copy of a State Board of Tax Commissioner's memorandum, dated September 21, 1995; and a copy of 50 IAC 2.2-10-6.1 (D) "pricing"

For the Board:

Board's Exhibit A – Subject Form 131 petition, dated April 5, 2002 with the following attachments: a copy of the power of attorney from Paul Goeke to Ralph Campbell; a copy of a "work order" from United Structures of America on the 150' x 50' section; a copy of Rule 11, page 110, "GCK Base Rates"; a copy of Rule 11, page 5, "Model: GCM Auto Service Center"; six (6) photographs of the subject structure; a copy of *Morris v. State Board of Tax Commissioners*, 712 N.E. 2d 1120 (Ind. Tax 1999); a copy of *Barker v. State Board of Tax Commissioners*, 712 N.E. 2d 563 (Ind. Tax 1999); Noblesville Township Assessor's response to the PTABOA hearing on the issue under review; Petitioner's PRC; State Board of Tax Commissioner's memorandum, dated August 25, 1996; STB Instructional Bulletin 91-8; Hare Holding Corporation's PRC; Daris Reynolds' PRC; BFP Investments' PRC; Kahlo Family Limited Partnership's PRC; and fourteen (14) photographs of interior and exterior of the subject and comparable buildings

Board's Exhibit B – Notice of Hearing on Petition (Form 117), dated August 2, 2002

Jurisdictional Framework

10. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessment or matters of administrative law and process.
11. The Board is authorized to issue this final determination pursuant to Ind. Code § 6-1.1-15-3.

Indiana's Property Tax System

12. The Indiana Constitution requires Indiana to create a uniform, equal, and just system of assessment. See Ind. Const. Article 10, § 1.
13. Indiana has established a mass assessment system through statutes and regulations designed to assess property according to what is termed "True Tax Value". See Ind. Code § 6-1.1-31, and 50 Ind. Admin. Code 2.2.
14. True Tax Value does not precisely equate to fair market value. See Ind. Code § 6-1.1-31-6 (c).
15. An appeal cannot succeed based solely on the fact that the assessed value does not equal the property's market value. See *State Board of Tax Commissioners v. Town of St. John*, 702 N.E. 2d 1034, 1038 (Ind. 1998) (*Town of St. John V*).
16. The Indiana Supreme Court has said that the Indiana Constitution "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", nor does it "mandate the consideration of whatever evidence of property wealth any given taxpayer deems relevant", but that the proper inquiry in tax appeals is "whether the

system prescribed by statute and regulations was properly applied to individual assessments.” See *Town of St. John V*, 702 N.E. 2d at 1039 – 40.

17. Although the Supreme Court in the *St. John* case did declare the cost tables and certain subjective elements of the State’s regulations constitutionally infirm, it went on to make clear that assessment and appeals must continue to be determined under the existing rules until new regulations are in affect.
18. New assessment regulations have been promulgated, but are not in affect for assessments established prior to March 1, 2002. See 50 Ind. Admin. Code 2.3.

State Review and Petitioner’s Burden

19. The Board does not undertake to reassess property, or to make the case for the petitioner. The Board’s decision is based upon the evidence presented and issues raised during the hearing. See *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113 (Ind. Tax 1998).
20. The petitioner must submit “probative evidence” that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113 (Ind. Tax 1998), and *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d 1230 (Ind. Tax 1998). [“Probative evidence” is evidence that serves to prove or disprove a fact.]
21. The petitioner has a burden to present more than just “de minimis” evidence in its effort to prove its position. See *Hoogenboom-Nofzinger v. State Board of Tax Commissioners*, 715 N.E. 2d 1018 (Ind. Tax 1999). [“De minimis” means only a minimal amount.]
22. The petitioner must sufficiently explain the connection between the evidence and petitioner’s assertions in order for it to be considered material to the facts. “Conclusory

statements” are of no value to the Board in its evaluation of the evidence. See *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329 (Ind. Tax 1999).

[“Conclusory statements” are statements, allegations, or assertions that are unsupported by any detailed factual evidence.]

23. Essentially, the petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. See *State Board of Tax Commissioners v. Indianapolis Racquet Club, Inc.*, 743 N.E. 2d 247, 253 (Ind. Tax 2001), and *Blackbird Farms Apartments, LP v. Department Local Government Finance*, 765 N.E. 2d 711 (Ind. Tax 2002).

24. The Board will not change the determination of the County Property Tax Assessment Board of Appeals unless the petitioner has established a “prima facie case” and, by a “preponderance of the evidence” proven, both the alleged error(s) in the assessment, and specifically what assessment is correct. See *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230 (Ind. Tax 1998), and *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax 1997). [A “prima facie case” is established when the petitioner has presented enough probative and material (i.e. relevant) evidence to the Board (as the fact-finder) to conclude that the petitioner’s position is correct. The petitioner has proven his position by a “preponderance of the evidence” when the petitioner’s evidence is sufficiently persuasive to convince the Board that it outweighs all evidence, and matters officially noticed in the proceeding, that is contrary to the petitioner’s position.]

Discussion of the Issue

Whether the subject structure should be valued from the GCK pricing schedule rather than the GCM pricing schedule

25. The subject structure is currently valued from the GCM pricing schedule with the following usages – auto service, commercial garage, light utility storage, and general office. A separate assessment is also made for a 4,047 square foot auto showroom using the GCM pricing schedule.
26. The Petitioner contends the subject structure is a light pre-engineered, pre-designed structure that should be priced from the General Commercial Kit (GCK) pricing schedule. In addition to testimony presented, the Petitioner submitted a “work order” for the construction of a 150’ x 50’ addition, photographs, additional PRCs of other similar properties, previous Tax Court decisions and copies of Board Instructional Bulletins 91-8 and 92-1. *Campbell testimony, Petitioner’s Exhibits 1 and 2 & Board’s Exhibit A.*
27. The Respondent contends the subject is correctly assessed from the General Commercial Mercantile (GCM) schedule and does not qualify to be valued from the GCK pricing schedule. In support of this conclusion the Respondent testifies to features that disqualify the subject structure from consideration for pricing from the GCK schedule. *Respondent’s Exhibit 1.*
28. The applicable rule(s) governing this issue are:
50 IAC 2.2-10-6.1
There are four “association groupings” for commercial buildings, and each grouping has a separate schedule to facilitate selection. The four groupings are General Commercial Mercantile (GCM), General Commercial Industrial (GCI), General Commercial Residential (GCR), and General Commercial Kit (GCK). Assessing officials are to select and use the pricing schedule that bests represents the structure being assessed. The GCM, GCI, GCR association groupings include

use type descriptions to facilitate the selection of the appropriate pricing schedule. GCK does not include use type descriptions. GCK is utilized for valuing pre-engineered, pre-designed wood pole or steel frame buildings used for commercial or industrial purposes. Buildings classified as special purpose designed buildings are not valued using the GCK pricing schedule.

50 IAC 2.2-11-1

The model assumes that there are certain elements of construction for a given use type. The construction components for each use type model (under the GCM pricing schedule) are included in this section of the Regulation.

50 IAC 2.2-11-5, Schedule A.4

GCK Base Rates

29. Evidence and testimony considered particularly relevant to this determination include the following:
- a. A portion of the subject structure was constructed in 1969 (20,223 square feet), with a 150' x 50' (7,500 square feet) section and a 15' x 50' (750 square feet) section added in the year 2000. A 1,473 square foot general office area found in the 20,223 square foot section built in 1969 and a 4,047 square foot auto showroom area are not under review in this appeal. *Campbell testimony & Respondent's Exhibit 1.*
 - b. The 150' x 50' section contains metal siding, exterior sheathing, 24-gauge roof and siding, 80 MPH wind load, 20 PSF snow load for the roof and siding, roof and siding X-bracing, rigid frame tapered columns, steel purlins and 1:12 roof pitch. The building also contains equal bay spacing and a non-load bearing 3-½ foot high concrete block wall. This newer section is the same as the section built in 1969. *Campbell testimony.*
 - c. The subject structure does not qualify for the GCK pricing due to the existence of concrete block walls, overhead doors, rigid steel construction, floor drains, a

Painted interior as well as being a special purpose/use building. *Harmon & Pee testimonies.*

Analysis of the GCK Pricing Issue

30. The Board's Regulation, 50 IAC 2.2-10-6.1, provides an explanation of how to determine a base rate. Specifically, base rates are given for a range of perimeter to area ratios for specific construction types for various uses and finish types. Models are provided as conceptual tools to use to replicate reproduction cost of a structure using typical construction materials assumed to exist for a given use type. Use type represents the model that best describes the structure.
31. Because of the numerous models provided, the base rates are divided into four association groupings, namely: (1) General Commercial Mercantile (GCM); (2) General Commercial Industrial (GCI); (3) General Commercial Residential (GCR); and (4) General Commercial Kit (GCK). Three of the four groupings contain use type descriptions in order to aid in selection. The GCK schedule is the exception.
32. "...[G]CK does not include use type descriptions. This schedule is utilized for valuing pre-engineered, pre-designed pole buildings, which are used for commercial and industrial purposes. A format has been developed to value the base building on a perimeter to area ratio basis and to adjust the value based on various individual components of the building.
33. In the final analysis, when selecting the appropriate pricing schedule, there are only four (4) factors to be considered in determining whether or not the GCK schedule is appropriate for valuing a structure. These factors are: (1) whether the structure is pole framed; (2) whether the structure is pre-engineered; (3) whether the structure is for commercial or industrial use; and (4) whether the structure is a special purpose designed building. Therefore, if a building is a pre-engineered pole framed building used for

commercial or industrial purposes, and is not a special purpose design building, the GCK schedule is the appropriate schedule for valuing the building.

34. The Petitioner argues that the subject structure qualifies to be valued from the GCK pricing schedule rather than the GCM pricing schedule. In support of this argument the Petitioner presented testimony regarding the features of the structure, a “work order” from United Structures of America for the construction of the 150’ x 50’ addition in 2000, photographs of the subject structure, PRCs of other properties, Tax Court decisions, and references to State Instructional Bulletins 91-8 and 92-1. See Petitioner’s Exhibits 1 and 2 and Board’s Exhibit A.
35. The Respondent argues that the subject building was disqualified from being valued using the GCK pricing schedule, not because of a single feature, but due to the existence of features such as concrete block walls, overhead doors, rigid steel construction, floor drains, painted interior walls as well as being a special purpose/use building. The County valued the subject structure from the GCM pricing schedule. The GCM schedule includes use types generally associated with commercial operations.
36. 50 IAC 2.2-10-6.1 directs assessing officials to select and use the pricing schedule and model that best represents the structure being assessed. Therefore, as stated in ¶20 – 23 under State’s Review and Petitioner’s Burden, the Petitioner must submit “probative evidence” that adequately demonstrates all alleged errors in assessment. The Petitioner has a burden to present more than minimal amounts of evidence to support its position. The Petitioner is required to explain the connection between the evidence and the Petitioner’s issues and the Petitioner must do two (2) things: (1) prove that the assessment is incorrect and (2) present sufficient evidence to show what assessment is correct.
37. Consequently, in this appeal, the Petitioner has the burden of proving that the subject structure qualifies to be valued from the GCK schedule, and that the GCK schedule best presents the subject structure.

38. Before applying the evidence to reduce the contested assessment, the State must first analyze the reliability and probity of the evidence to determine what, if any, weight to accord it.
39. Though the Petitioner's testimony and evidence may indicate a structure (28,473 total square footage) with characteristics of a building that could possibly qualify to be valued from the GCK pricing schedule, the evidence submitted by the Petitioner is limited.
40. One such exhibit submitted into evidence was a faxed "work order" from United Structures of America, Inc., which included building specifications for a 150' x 50' addition, and six (6) photographs of the subject structure (Petitioner's Exhibit 1).
41. The features listed in the "work order" are for a 150' x 50' section constructed in 2000 and added to the existing structure that was built in 1969. The features included 24-gauge metal roof and siding, X-bracing, exterior sheathing, rigid frame tapered columns, steel purlins, 1:12 roof pitch, 80 MPH wind load, 20 PSF snow load, equal bay spacing, and a non-load bearing 3 ½ foot high concrete block wall. Again, these features relate specifically to the addition added in 2000 and not to the entire building. The Petitioner did not present any evidence relating to the original section's (20,223 square feet) features or materials used in its construction in 1969.
42. The one (1) page "work order" indicates that there were additional pages that were not submitted by the Petitioner at the hearing. The "work order" contains specifications for the addition but fails to include any cost figures for the same addition.
43. The County PRC shows the original section of the subject building (built in 1969) measures 20,223 square feet. The 150' x 50' section added to the original building in 2000, measures 7,500 square feet plus an additional 750 square feet (8,250 square feet total). The total square footage for the subject structure under review is then 28,473 square feet. Per the Petitioner, of the 28,473 square feet, 1,473 square feet of general office area is not under review along with an additional 4,047 square foot (auto-

showroom) structure in this appeal. Hence, the Petitioner is arguing for the GCK pricing to be applied to the remainder of the subject structure or 27,000 square feet.

44. The section added in 2000 (8,250 square feet) accounts for only 29% of the entire subject structure or only 30.5% of that area under appeal. The 30.5% is determined in the following manner:
 - a. The entire structure measures 28,473 square feet (see PRC);
 - b. As per the Petitioner's testimony, 1,473 square feet for general office area is not on appeal (as well as an additional 4,047 square foot structure);
 - c. Net square footage of the subject structure on appeal is 27,000 square feet;
 - d. The 8,250 square foot section added in 2000, divided by 27,000 square feet equals 30.5% of the total area under appeal.

45. Though the Petitioner argues for the GCK pricing schedule to be applied to the entire structure (except 1,473 square feet) based on the characteristics of the addition, the Petitioner fails to submit any evidence or documentation to establish that the remaining 69.5% or 18,750 square feet of the original building is constructed in the same manner, having the same features, characteristics and or structural integrity, as that which was added on in 2000.

46. It is not enough for the Petitioner to make conclusory statements that the original section of the building (built in 1969) is constructed in the same manner as that of the newer section added in 2000, without supporting those statements with probative evidence. Unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.

47. Petitioner's Exhibit 1 also includes six (6) photographs of the subject structure. These photographs consisted of two (2) exterior photographs (one of the side and one of the back of the structure) and four (4) interior photographs. Though the photographs may demonstrate some characteristics that can be found within the GCK pricing schedule such as a metal roof and sides, a low-pitched roof, and interior finish, the photographs

themselves are not conclusive. It cannot be determined what section of the structure they depict – the original section or the newer section. Mere references to photographs or regulations, without explanation, do not qualify as probative evidence. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329, 333 (Ind. Tax Ct. 1999).

48. The Petitioner also opines that the subject structure should not be disqualified from the GCK pricing because of building feature options such as a non-load bearing 3 ½ foot high concrete block wall and additional doors. The Petitioner refers to the Tax Court cases of *Barker v. State Board of Tax Commissioners*, 712 N.E. 2d 563 (Ind. Tax 1999) and *Morris v. State Board of Tax Commissioners*, 712 N.E. 2d 1120 (Ind. Tax 1999).
49. In the above-mentioned Tax Court decisions, the Tax Court concluded that the existence of minimal building feature options, such as small amounts of brick or additional windows, does not disqualify a building from being considered a kit building, and being valued from the GCK schedule. *Barker v. State Board of Tax Commissioners*, 712 N.E. 2d 563 (Ind. Tax 1999); *Componex*, 683 N.E. 2d 1372 (Ind. Tax 1997).
50. It should be noted that many of the Tax Court decisions regarding “kit” buildings dealt with the rules and regulations promulgated by the State for the statewide general reassessment for 1989 (Both the *Morris* and *Barker* appeals were filed for the March 1, 1993 assessment date). Included in these rules and regulations were State Instructional Bulletins 91-8 and 92-1, which made amendments to the cost schedules in the Regulation (50 IAC 2.1) for the 1989 reassessment.
51. State’s Instructional Bulletin 91-8 provided for a fifty-percent (50%) reduction to the base rate for qualifying kit buildings priced from the GCM, GCI and the Poultry Confinement Building Pricing Schedules. State’s Instructional Bulletin 92-1 provided local assessing officials instructions on handling appeals by taxpayers who felt their qualifying structures were not reassessed as required in the State’s Instructional Bulletin 91-8. Instructional Bulletin 92-1 gave a more detailed method to use to assess structures qualifying for the fifty-percent (50%) reduction to the base rate.

52. However, in 1995 the State promulgated rules and regulations for the statewide general reassessment for 1995 established a separate pricing schedule (GCK) for structures meeting the criteria stated in ¶ 33. With the advent of the new reassessment, Instructional Bulletins 91-8 and 92-1 were no longer applicable. In the case at bar, the assessment under review is for 2001 and thus falls under those rules and regulations established for the 1995 reassessment.
53. In summary, for appeals prior to the 1995 reassessment date, the methodology used in the Instructional Bulletins to make this type of adjustment entailed making a fifty-percent (50%) reduction to the base rate of the existing pricing schedule that was in use at the time.
54. As cited in the *Indiana Administrative Code* (2001), 50 IAC 2.1, “real property assessment” was repealed by the State Board of Tax Commissioners, filed September 14, 1992 (16IR 662) effective March 1, 1995 and replaced by the “real property assessment” 50 IAC 2.2. The State’s 1995 Regulation, 50 IAC 2.2, eliminated the “kit” building adjustments described in the State’s Instructional Bulletins 91-8 and 92-1 for assessment years 1995 and thereafter.
55. Though no longer applicable to the 1995 reassessment, the Petitioner seems to rely heavily on the Instructional Bulletins in pointing out features which he calls “clues”, found in those Instructional Bulletins to qualify the subject structure for assessment from the GCK schedule rather than the features found within the GCK pricing schedule for the 1995 reassessment. Again, the petition under review is for 2001.
56. The Respondent, on the other hand, testified that the subject structure was disqualified from being valued from the GCK pricing schedule, not because of a single feature but due to concrete block walls, numerous overhead doors, rigid steel construction, floor drains, painted interior finish and the building being a special purpose/use structure.

57. The Respondent submitted copies of two (2) Board memorandums, dated September 21, 1995 and August 25, 1996 (Respondent's Exhibit 1). These memorandums were the Board's responses to the questions asked by assessing officials at the January Assessor's Conferences Question and Answer sessions held in January 1995 and 1996 respectively. However, since the time this question and similar questions were asked of the Board and the Board responded to these questions, the Tax Court has issued decisions in cases such as *Barker* and *Componex* that would supersede the Board's memorandums and would allow for structures with minimal brick or concrete block features to qualify for the GCK pricing.
58. As previously stated in ¶ 49, there is nothing within the GCK pricing schedule or its descriptions that preclude a building with the minimal features (cosmetic features that enhance the buildings aesthetic value) described above from being priced from the GCK schedule, unless these features significantly impact the cost of the building or the structural integrity.
59. However, the Respondent's main point of contention is that the subject structure is a "special purpose" design building. The Respondent contends that because of various features (see ¶ 56) the subject structure is a "special purpose design" building and does not qualify to be valued from the GCK pricing schedule.
60. In the past, parties to appeals have argued the Regulation failed to define the meaning of special purpose design. This is no longer the case, the Indiana Tax Court in *LDI Manufacturing v. State Board of Tax Commissioners*, 759 N.E. 2d 685 (Ind. Tax 2001) referred to technical, appraisal terms to define it. The Tax Court defined a "special-purpose property" or a "special-design property" as "[a] limited-market property with unique physical design, special construction materials, or a layout that restricts its utility to the use for which it was built[.]" Appraisal Institute, *The Appraisal of Real Estate* 25 (12th ed. 2001).

61. Since the Tax Court has defined what a “special-purpose property” or a “special-design property” is, the Board will use the Tax Court’s definition as a basis for its review of the “special purpose” issue.
62. The Respondent lists a number of features that it considered to disqualify the subject structure from a GCK pricing. Again, neither the GCK pricing schedule nor its descriptions preclude a building with the minimal features described from being priced from the GCK schedule. In fact several of the features discussed by the Respondent, can be found within the GCK pricing schedule – rigid steel construction and interior finish. With other features possibly being accounted for in the “special feature” section of the PRC – floor drains and concrete block wall.
63. The Respondent fails to present any evidence that would support its contention that the structure is a “special-purpose” building or that it fits the Tax Court definition of a “limited-market property with unique physical design, special construction materials, or a layout that restricts its utility to the use for which it was built[.]” The Respondent does not submit any testimony or evidence that the utility of the structure is restricted to its’ present use(s).
64. Additional evidence attached to the Form 131 petition (Board’s Exhibit A) are four (4) PRCs of properties valued from either the GCI or GCM pricing schedules. Some of the PRCs indicate a similar use to that of the subject structure. However, at the hearing because neither party discussed this evidence its relevancy to the issue under review was not established.
65. For all the reasons set forth above, the following determinations are made:
 - a. The 18,750 square feet auto service/commercial garage/utility storage area is best described by the GCM pricing schedule. The Petitioner failed to establish by documented evidence or testimony that this area has the same features or structural integrity as that of the 150’ x 50’ addition added in 2000 and thus would meet the

criteria to be valued from the GCK pricing schedule. No change in the assessment is made for this area of the subject building.

- b. Through testimony and evidence submitted, the Petitioner was able to establish a prima facie case showing that the addition constructed in 2000, 8,250 square feet for auto service and commercial garage, is best described by the GCK schedule, and should be priced accordingly. A change in the assessment is made for this area of the subject structure as a result of this issue.
- c. Per the Petitioner, a 1,473 square foot and 4,073 square foot area are not under review by the Board in this appeal. No change in the assessment is made as a result.

Additional Findings

- 66. In the current assessment, the subject structure has a grade factor of “C” applied to it. This grade factor is based on the comparison to the GCM schedule models. Such a comparison would no longer be applicable for a structure now valued from the GCK pricing schedule.
- 67. Because the Board has determined that the 8,250 square foot addition constructed in 2000 will now be valued using a different schedule (GCK pricing schedule), all appropriate adjustments should be made. These adjustments may include, but are not limited to grade and physical depreciation.

Summary of Final Determination

*Whether the subject structure should be valued
from the GCK pricing schedule*

- 68. Only the 8,250 square foot section built in 2000 is to be valued using the GCK pricing schedule with all necessary adjustments being made, including grade and physical depreciation.

The above stated findings of fact and conclusions of law 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

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.