REPRESENTATIVES FOR PETITIONER:
Courtney S. Figg, Attorney
Matthew S. Carr, Attorney

REPRESENTATIVE FOR RESPONDENT:
Brian A. Cusimano, Attorney

BEFORE THE INDIANA BOARD OF TAX REVIEW

WIGWAM HOLDINGS LLC,	)	Petition No.: 48-003-15-1-4-01882-16
	)	
Petitioner,	)	Parcel No.: 48-11-13-201-003.000-003
	)	
v.	)	
	)	County: Madison
MADISON COUNTY ASSESSOR,	)	
	)	Township: Anderson
	)	
Respondent.	)	Assessment Year: 2015

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

March 29, 2018

FINAL DETERMINATION

The Indiana Board of Tax Review (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. Did the Petitioner prove the 2015 assessment was incorrect?

PROCEDURAL HISTORY

2. The Petitioner initiated its 2015 appeal by filing a Petition for Review of Assessment by Local Assessing Official (Form 130) with the Madison County Assessor on December 12, 2015. On September 19, 2016, the Madison County Property Tax Assessment Board of Appeals (PTABOA) issued its determination lowering the assessment, but not to the level requested by the Petitioner. On November 3, 2016, the Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board.

3. On April 18, 2017, the Board's administrative law judge, Joseph Stanford (ALJ), held a hearing on the petition.[1] Neither the Board nor the ALJ inspected the property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. The following people were sworn and testified:

For the Petitioner:	Jay E. Allardt, SRA, appraiser, Jamey Richter, manager and broker at Evolution Development Group, Gary Hobbs, CEO of BWI,[2] Lewis R. Kinkead, partner at Pinebrook Properties, Matthew B. Murphy III, principal and COO of BWI.
For the Respondent:	Anthony Garrison, consultant with Nexus Group.

5. The Petitioner submitted the following exhibits:

Petitioner Exhibit 1:	Form 131,
Petitioner Exhibit 2:	"Grounds for appeal,"
Petitioner Exhibit 3:	Form 130 with attachments,
Petitioner Exhibit 4:	2015 Notification of Final Assessment Determination (Form 115),
Petitioner Exhibit 5:	Appraisal of the subject property prepared by Jay E. Allardt, SRA, and James E. Dietrick, dated June 6, 2014,
Petitioner Exhibit 6:	Photographs of the subject property,
Petitioner Exhibit 7:	Escrow Agreement between the Petitioner and Anderson Community School Corporation, dated September 2, 2014,
Petitioner Exhibit 8:	Quitclaim deed from Anderson Community School Corporation, dated September 2, 2014,

[1] The parties waived the deadlines for the Board's issuance of this Final Determination.
[2] BWI is a partner or member of Wigwam Holdings, LLC.

Petitioner Exhibit 9:	Quitclaim deed from City of Anderson Department of Redevelopment to the Petitioner, dated September 2, 2014,
Petitioner Exhibit 10:	Real Estate Transfer Agreement between the City of Anderson Department of Redevelopment and the Petitioner, dated September 2, 2014,
Petitioner Exhibit 11:	Subject property record card,
Petitioner Exhibit 12:	"Anderson's Wigwam deal falls apart," from *Indiana Economic Digest,* dated July 9, 2014.

6. The Respondent submitted the following exhibits:

Respondent Exhibit A:	Subject property record card,
Respondent Exhibit B:	Aerial photograph of the subject parcel and a zoning map,
Respondent Exhibit C:	2011 Real Property Assessment Manual,
Respondent Exhibit D:	2011 Real Property Assessment Guidelines, Appendix F, pages 1, 2, 16, 17, and 18,
Respondent Exhibit E:	"Standard on Mass Appraisal of Real Property," from International Association of Assessing Officers (approved April 2013), pages 11 and 12,
Respondent Exhibit F:	"The Zoning Guide," from the City of Anderson, pages 1, 2, 3, 4, and 32,
Respondent Exhibit G1:	"Plan saves Anderson's Wigwam gym from demolition," from *Associated Press,* dated August 28, 2014,
Respondent Exhibit G2:	"Anderson's Wigwam Gym to Become Apartment Building," authored by Sarah Fentem of *WFIU,* dated September 17, 2014,
Respondent Exhibit G3:	"Held on Wigwam: 'We could … play tonight,'" authored by Devan Filchak of *The Herald Bulletin,* dated October 24, 2015,
Respondent Exhibit G4:	"New life for Wigwam on horizon," authored by Ken de la Bastide of *The Herald Bulletin,* dated April 22, 2016,
Respondent Exhibit G5:	"Developer wants $5 million from city for Anderson Wigwam overhaul," from *Associated Press,* dated May 8, 2016,
Respondent Exhibit G6:	"County lowers assessed value of Wigwam complex for 2015 taxes," authored by Ken de la Bastide of *The Herald Bulletin,* dated September 20, 2016,
Respondent Exhibit H:	Escrow Agreement between the Petitioner and Anderson Community School Corporation, dated September 2, 2014; quitclaim deed from the Anderson Community School Corporation, dated September 2, 2014; quitclaim deed from the City of Anderson Department of Redevelopment to the Petitioner, dated September 2, 2014.

7. The following additional items are recognized as part of the record:

Board Exhibit A:	Form 131 with attachments, including Power of Attorney for Matthew S. Carr and Courtney S. Figg,
Board Exhibit B:	Hearing notice dated March 16, 2017,
Board Exhibit C:	Hearing sign-in sheet,
Board Exhibit D:	Notice of Appearance for Brian A. Cusimano, and Notice of Change of Address,
Board Exhibit E:	Petitioner's post-hearing brief,
Board Exhibit F:	Respondent's post-hearing brief.

8. The property under appeal, commonly referred to as the "Wigwam," is located at 1200 Fairview Street in Anderson.

9. The PTABOA determined a total assessment of $2,115,200 (land $423,700 and improvements $1,691,500).

10. The Petitioner requested a total assessment of $68,500 (land $68,500 and improvements $0).

OBJECTIONS

11. The parties made numerous objections at the hearing. The ALJ took the objections under advisement.

12. During Mr. Hobbs' cross-examination, Mr. Cusimano referenced Respondent's Exhibit G4. Ms. Figg did not object to the admittance of Respondent's Exhibit G4, but instead argued that Mr. Cusimano's questions were related to activities that took place in 2016, and not to the relevant valuation date in question. Ms. Figg also objected to Mr. Cusimano's questioning of Mr. Garrison regarding his "recent visit" to the property and whether he had observed any "activity or construction" on the same grounds.

13. In response to these objections, Mr. Cusimano argued that an important issue is "whether the property is going to be redeveloped" and his questions related to the "potential and eventual uses of the property." Further, Mr. Cusimano argued the Petitioner called witnesses who offered testimony regarding "activities that occurred in 2016."

14. The Board infers that Ms. Figg's objection is on the basis of relevancy. It is not a foregone conclusion that something is irrelevant because it occurred after the assessment date in question. This fact is especially true here, because the Petitioner called witnesses who were not involved with the property until after the March 1, 2015, valuation date. Ms. Figg's objections go to the weight of the testimony rather than the admissibility. Accordingly, her objections are overruled.

15. Mr. Cusimano objected to Mr. Allardt's rebuttal testimony regarding the specific estimated costs to renovate and operate the subject property. Mr. Cusimano argued that Mr. Allardt was bringing in "new facts" that were not discussed in the Petitioner's case-in-chief. In response, Ms. Figg argued that Mr. Allardt was merely referencing his appraisal that had been entered into the record without objection.

16. While Mr. Allardt may not have specifically testified in terms of the exact dollars required for renovations and operations during the Petitioner's case-in-chief, he did testify extensively as to specific renovations and repairs that were needed. Additionally, he included estimated costs of operations in his appraisal. In fact, he hypothesized those costs were the reason the Anderson School Corporation elected to abandon the property. Accordingly, Mr. Cusimano's objection is overruled.

JURISDICTIONAL FRAMEWORK

17. The Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

PETITIONER'S CONTENTIONS

18. The property's 2015 assessment is too high. In an effort to prove this, the Petitioner presented an appraisal completed by Jay Allardt and James Dietrick, both Indiana

certified general appraisers. The appraisal was performed in accordance with Uniform Standards of Professional Appraisal Practice (USPAP). Mr. Allardt was present to testify regarding the appraisal. According to appraisal, the estimated value of the subject property was $68,500 as of May 30, 2014. The appraisers allocated this entire amount to the land portion of the property, and assigned a value of $0 to the improvements. *Figg argument; Carr argument; Allardt testimony; Pet'r Ex. 5.*

19. The subject property, a "special-purpose property" commonly referred to as "the Wigwam," includes approximately 220,000 square feet of improvements and structures, built in 1961 with a major addition in 1979.[3] These structures are situated on 8.56 acres. The property, originally owned by the Anderson Community School Corporation, includes a natatorium, boiler room, auditorium, band and choir rooms, classrooms, and a gymnasium. The gymnasium, an 8,996-seat "arena," served as the home court for Anderson High School's basketball games until 2011. *Allardt testimony; Pet'r Ex. 5.*

20. As a result of declining ticket revenue and high operational and maintenance costs, the school corporation closed the property on July 1, 2011. Mr. Allardt estimated the operation of the facility would have cost more than $500,000 annually. Major renovations or replacements would have been needed, including asbestos removal. In addition, the building is not handicapped-accessible, it lacks air conditioning and a sprinkler system, and the bleachers are in poor condition. *Allardt testimony; Pet'r Ex. 5.*

21. According to Mr. Allardt, the school corporation did not use the property from July 2011 through September 2014, other than to store "some boxes and that sort of stuff" in the empty swimming pool, which the school corporation had erected a fence around. On September 2, 2014, the school corporation conveyed the subject property to the Anderson Department of Redevelopment via a quitclaim deed. On the same date, the Department of Redevelopment then conveyed the property to the Petitioner, also via a quitclaim deed. *Allardt testimony; Pet'r Ex. 8, 9.*

[3] The subject property includes four parcels, referred in the appraisal as Parcel A, Parcel B, Parcel C, and Parcel D. Only Parcel A, the parcel the Wigwam is situated on, is under appeal.

22. The Petitioner acquired the property for $0. Even though there was "no purchase price," the acquisition was still typically motivated and an arm's-length transaction. As part of the transaction, the Petitioner and the school corporation entered into an escrow agreement in which the school corporation deposited $630,000 into an escrow account for the Petitioner to use in restoring the property. According to Mr. Allardt, the school corporation "originally budgeted that amount to demolish the property." However, according to the terms of the quitclaim deed, the Petitioner is not permitted to demolish the property. If the Petitioner does not receive proper financing to ultimately restore the property by December 31, 2018, the Petitioner must "give the property back" to the Department of Redevelopment. *Allardt testimony; Hobbs testimony; Pet'r Ex. 7, 9, 10.*

23. As of the date of the Board's hearing, April 18, 2017, the Petitioner was still seeking proper financing to restore and redevelop the property. Any future plans likely depend on the Petitioner receiving "historic tax credits" and "new market tax credits." For these reasons, as of the relevant valuation date in question, March 1, 2015, the property did "not have any use." Mr. Allardt did acknowledge the property has "potential uses." If the Petitioner is able to secure funding, the intent is to redevelop the property into low-income housing. *Allardt testimony; Hobbs testimony; Murphy testimony.*

24. According to the Petitioner's appraisal, completed for the Department of Redevelopment, the "highest and best use" of the property is vacant, without improvements. Mr. Allardt concluded it is not "economically feasible" to restore the improvements because of the high cost associated with renovation. Therefore, Mr. Allardt determined the value of the improvements should be $0. Mr. Allardt conceded, however, the Petitioner is not "legally allowed" to demolish the improvements "without some alterations" to the quitclaim deed. *Allardt testimony; Pet'r Ex. 5.*

25. To arrive at an estimated land value, the appraisers were forced to consider data from as far back as 2008, because they were unable to find recent comparable sales data from athletic complexes or surplus school properties. They concluded that the property's land value should be $8,000 per acre, resulting in a total land value of $68,500. *Allardt testimony; Pet'r Ex. 5.*

26. While the PTABOA requested the Petitioner to submit an additional appraisal, the Petitioner could not provide one in time for the PTABOA hearing. However, even if the Petitioner would have been able to acquire a second appraisal "it wouldn't change significantly." *Allardt testimony; Kinkead testimony.*

27. Finally, the Respondent failed to accurately assess the property. The property is currently assessed with a use type of "utility storage" even though the property was not, and is not, being used. Additionally, the Respondent failed to consider obsolescence depreciation. While the Respondent applied a 78% physical depreciation, a 22% obsolescence depreciation should have been applied. *Allardt argument.*

RESPONDENT'S CONTENTIONS

28. The subject property is correctly assessed. The Petitioner had the burden to prove the property was incorrectly assessed and failed to make a prima facie case. The Petitioner erroneously relied on an appraisal that valued the property's "highest and best use" rather its "market value-in-use." *Cusimano argument (referencing Pet'r Ex. 5); Garrison testimony.*

29. In an effort to prove the property was assessed incorrectly, the Petitioner provided an appraisal prepared for the property's previous owner, the Department of Redevelopment. According to the appraisal, the demolition of the improvements was the lowest cost alternative for the Department of Redevelopment. However, the highest and best use of the property, vacant land, is different than the current use of the property. In fact, portions of the structure are still usable. *Cusimano argument (referencing Pet'r Ex. 5); Garrison testimony.*

30. The Indiana Tax Court has addressed the need to value property for its current use rather than its highest and best use. While many times the two are the same, there are instances where a property's current use is not its highest and best use. In those instances market value-in-use will not equal market value because the sales price will not reflect the

property's utility. *Cusimano argument* (citing *Millennium Real Estate Inv. v. Benton Co. Ass'r*, 979 N.E.2d 192, 196 (Ind. Tax Ct. 2012)).

31. "Utility" refers to a property's ability to satisfy a human want, need, or desire. Thus, the fact that a property is vacant does not mean it has no utility and therefore no value. The property has utility to the Petitioner, as the Petitioner acquired it, and several witnesses testified about plans and ideas to redevelop the property. Thus, a highest and best use other than vacant land is feasible for the Petitioner. *Cusimano argument; Garrison testimony.*

32. Additionally, the Petitioner's appraisal values the property based on conditions that did not, and legally could not have existed on the assessment date in question. The quitclaim deed to the property states that it "shall be repaired, restored, and maintained in a first class manner by Developer at its sole cost and expense." If restoration cannot be accomplished, the Petitioner cannot simply demolish the improvements. In that case, the Petitioner is legally required to relinquish ownership and turn control of the property back to the Department of Redevelopment. *Cusimano argument (referencing Pet'r Ex. 5, 9).*

33. Mr. Allardt's suggestion that a second appraisal would not have been significantly different is conclusory. The ownership transferred from an exempt entity to the Petitioner, and the highest and best use of the property "likely changed." Those reasons alone should impact appraisal methodology. *Cusimano argument (referencing Pet'r Ex. 5).*

34. The Petitioner's acquisition of the property was not the result of "a typically motivated transaction." The Department of Redevelopment, an exempt entity, was "atypically motivated by the intrinsic value of the Wigwam to the Anderson community." And generally, transactions involving exempt entities do not yield reliable indicators of value, because exempt entities are not typically motivated. Thus, in this case, the acquisition of the property should not be given any weight. *Cusimano argument (referencing Pet'r Ex. 9); Garrison testimony.*

35. Because the subject is a special-purpose property, and there is little to no market data regarding special-purpose properties, the Respondent and the PTABOA assessed it using the cost approach. As is typical for vacant or unoccupied improvements, a "use type" of "utility storage" was applied to the assessment computation, because it resulted in the lowest possible value. The property could have been used for storage, or the property could have been leased to an interested party for use as storage. *Cusimano argument; Garrison testimony; Resp't Ex. A, C.*

36. The Petitioner's arguments about the "use type" the Respondent selected amount to little more than a criticism of the methodology used to compute the assessment. Such arguments are insufficient to meet the burden of proof in a valuation case. *Cusimano argument* (citing *Westfield Golf Practice Center v. Washington Twp. Ass'r*, 859 N.E.2d 296 (Ind. Tax 2007)).

BURDEN OF PROOF

37. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r,* 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs,* 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute as amended by P.L. 97-2014 creates two exceptions to that rule.

38. First, Ind. Code § 6-1.1-15-17.2 "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior year." Ind. Code § 6-1.1-15-17.2(a). "Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or the Indiana tax court." Ind. Code § 6-1.1-15-17.2(b).

39. Second, Ind. Code § 6-1.1-15-17.2(d) "applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing

authority in an appeal conducted under IC 6-1.1-15." Under those circumstances, "if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct." Ind. Code § 6-1.1-15-17.2(d). This change was effective March 25, 2014, and has application to all appeals pending before the Board.

40. Here, the Petitioner, who is represented by counsel, accepted the burden of proof. The Respondent agreed the burden should remain with the Petitioner. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

ANALYSIS

41. Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.

42. Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *See O'Donnell v. Dep't of Local Gov't Fin.,* 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r,* 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2015 assessment, the assessment and valuation date was March 1, 2015. *See* Ind. Code § 6-1.1-4-4.5(f).

43. The most effective method to establish value can be through the presentation of a market value-in-use appraisal, completed in conformance with USPAP. *O'Donnell,* 854 N.E.2d

at 94; *Kooshtard Prop. VI, LLC v. White River Twp. Ass'r,* 836 N.E.2d 501, 506 n. 6 (Ind. Tax Ct. 2005). Here the Petitioner relied primarily on a USPAP complaint appraisal prepared by Jay Allardt and James Dietrick, both Indiana certified general appraisers. Together, they concluded the property should be valued at $68,500, all for land, as of May 30, 2014. Granted the valuation date is several months removed from the relevant valuation date, but the date is still close enough to be considered probative.

44. This appraisal, however, is based on assumptions, that make the appraisal unreliable if they are incorrect. More specifically, the appraisers concluded that the improvements must be demolished. The entire appraisal hinges on the premise that "there is no identifiable market for a purchase and re-use of the subject property without a substantial capital investment which may not be recoverable." *Pet'r Ex. 5* at 5. Mr. Allardt testified repeatedly that the property had "no use" and "was not being used," and that any use of the property was not "economically feasible." This position conflicts with Mr. Allardt's conclusion that there is a market: "if the site were vacant and offered for sale, the site would more than likely be purchased for speculative purposes," uses including low income housing, a public park, religious facility, public or private school, university use or conversion of the building to an alternative use. *Pet'r Ex. 5* at 52, 53.

45. The property is a large structurally sound facility. The necessity of demolition is not supported by the facts. There is no evidence that the entire facility must be razed by a potential buyer for conversion or investment purposes. The appraisal only states that demolition "may be the lowest cost alternative" when considering the school's holding costs. *Pet'r Ex. 5* at 56. The question is a potential buyer's costs, not the schools. There is no analysis of the cost of repairs for any of the potential uses. There is no analysis of what a potential buyer would pay.

46. The appraisal simply does not credibly establish that there is no market and that the property must be demolished. For these reasons we find that the appraisal does not credibly value the property.

47. Next, the Board turns to the Petitioner's argument that the purchase price is probative evidence. Often, the purchase price of a property is the best evidence of its value. *See Hubler Realty Co. v. Hendricks Co. Ass'r,* 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010) (the court upheld the Board's determination that the weight of the evidence supported the property's purchase price over its appraised value.) But the purchase must meet the conditions for a market sale. As explained in the Manual, market value is:

> [T]he most probable price, as of a specified date, in cash, or terms equivalent to cash, or in other precisely revealed terms, for which the specified property right should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgably, and for self-interest, and assuming neither is under undue duress.
>
> MANUAL at 5-6

48. For multiple reasons, the Petitioner's acquisition price of $0, plus additional consideration of $630,000 into an escrow account, is not probative. First, the Petitioner's post-hearing brief asserts that "[t]he evidence presented by the Owner indicates that the Property was exposed in the market from 2011 to 2014." *Bd. Ex. E* at 10. However, the Board is unable to find any evidence of this point in the record. At best, the Petitioner provided a copy of a newspaper article that discusses a deal with one group of private investors falling apart. *See Pet'r Ex. 12.* But that article fails to state if, or for how long, the property was actually exposed to the market. The Petitioner failed to provide any evidence of actual market exposure. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Ass'r,* 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis.")

49. Second, while Mr. Allardt offered a conclusory statement that the seller, the Department of Redevelopment, was "typically motivated," the Board disagrees. The Department of Redevelopment is an exempt entity, and therefore generally would not have the same motivations as a typical individual or for-profit business. In addition, as the Respondent argued, the Department of Redevelopment may have been atypically motivated by the property's "intrinsic value" to the community. *Bd. Ex. F* at 3, n.2. The restrictions in the deed reveal that the sale was contingent on non-demolition redevelopment in a short span

of time. Failure would result in the seller getting the property back. This is not a typically motivated transaction. The seller retained substantial control of the property. Thus, the acquisition price is not probative in determining the property's market value-in-use.

50. The Petitioner also attempted to prove the assessment is incorrect by arguing that the Respondent failed to consider obsolescence, and assessed the property using the wrong use type. Granted, the use of the property is an important consideration in this particular case. Nonetheless, this argument is little more than an attack of the Respondent's methodology based on its own interpretation of the property record card and an assumption of what the Respondent considered. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674 (holding that taxpayers failed to make a case by simply focusing on the assessor's methodology instead of offering market value-in-use evidence).

51. Additionally, to any extent the Petitioner proved that the assessment is incorrect, for the reasons set forth above, the Petitioner failed to prove what the correct assessment should be. Specifically, the Petitioner's appraisal estimates the value of the property for a use that was legally impermissible as of March 1, 2015, and it did not even contemplate the value to the Petitioner. The Petitioner's acquisition price is not probative for the reasons stated above.

52. After weighing the evidence, the Board finds the Petitioner failed to make a prima facie case for reducing the assessment. Where a Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.,* 799 N.E.2d 1215, 1221-22 (Ind. Tax Ct. 2003).

SUMMARY OF FINAL DETERMINATION

53. The Board finds for the Respondent and the 2015 total assessment will not be changed.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

_____
Chairman, Indiana Board of Tax Review

_____
Commissioner, Indiana Board of Tax Review

_____
Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.