STATE OF INDIANA
Indiana Board of Tax Review

WOODLAND SPRINGS LLC,	)	On Appeal From The Monroe County
	)	Property Tax Board of Appeals
Petitioner,	)	
	)	
v.	)	Petition for Review of Assessment
	)	Form 131
MONROE COUNTY PROPERTY	)	Petitions No. 53-016-99-1-4-00001
TAX BOARD OF APPEALS and	)	53-016-99-1-4-00003 &
VAN BUREN TOWNSHIP ASSESSOR,	)	53-016-99-1-4-00004
	)	
Respondents.	)	

Petitioner's Representative: Landman & Beatty
1150 Market Square
151 North Delaware Street
Indianapolis, Indiana 46244

Findings of Fact and Conclusions of Law

The Indiana Board of Tax Review, as successor agency of (State Board), having reviewed the facts and evidence, and having considered the issues, now makes the following findings of fact and conclusions of law.

Issue

The apartment land at issue herein was valued according to the Monroe County Land Order. Petitioner contends that the square foot cost is too high based upon certain sales data. Should the value of Petitioner's apartment land be reduced?

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 be considered a finding of fact.

Background Facts Regarding Administrative Proceedings

2. Pursuant to Ind. Code § 6-1.1-15-3, the Joseph C. Sansone Company filed a Form 131 petition on behalf of Woodland Springs LLC (hereinafter referred to as either Petitioner or Woodland). The Form 131 petition was filed on September 22, 1999, and requested a review of the Monroe County Property Tax Assessment Board of Appeals' (PTABOA) determination on the underlying Form 130 petition. The PTABOA's determination was issued on August 24, 1999.

3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on March 14, 2001 before Hearing Officer Jennifer Bippus. Testimony and exhibits were received into evidence. Mr. James Beatty and Ms. Sheila Murray represented Woodland. Ms. Judith Sharp, Monroe County Assessor, represented the County. Ms. Therese Chambers, Van Buren Township Assessor, represented the Township.

4. The following documents were made part of the record as Board Exhibits:
   Board's Exhibit A - A copy of the Form 131 for the subject property.
   Board's Exhibit B - The Notice of Hearing.
   Board's Exhibit C - The Power of Attorney for Mr. Beatty and Ms. Murray.
   Board's Exhibit D - A copy of the Request for Additional Evidence.
   Board's Exhibit E - The Continuance/Waiver signed by Mr. Beatty.

5. Bloomington land sales (sales from 1989 through 1997) were submitted by Woodland. These documents were made a part of the record and labeled Petitioner's Exhibit A. The Hearing Officer requested information on the location

of the sales submitted by Woodland and sales information on Woodland's property that is the subject of this appeal. A map showing the location of the sales listed on Petitioner's Ex. A, together with an explanation of why sales information could not be provided on the land at issue, was submitted on March 20, 2001. This information was made a part of the record and labeled Petitioner's Exhibit B.

6. A copy of the Monroe County Land Order (Apartments by Zone 1, 2, or 3) was submitted by the Respondents. This portion of the Land Order was made a part of the record and labeled Respondent's Exhibit A.

7. The Hearing Officer did not view the properties.

The Land Order

8. The Monroe County Land Order establishes a square foot value for apartment land. Land in Zone 1 is valued at $2.00/square foot, Zone 2 is valued at $1.50/square foot, and Zone 3 is valued at $1.00/square foot. *Sharp Testimony, Respondent's Ex. A. .*

9. It is undisputed that Woodland's apartment land falls within the purview of that section of the Land Order establishing a base rate of $1.00/square foot for apartment land located in Zone 3. *Respondent's Ex. A*.

10. Woodland's apartment land was valued at $1.00/square foot. *Board Ex. A*

Additional Facts Regarding the Land Under Appeal

11. The land under appeal is located at 3111 South Leonard Springs Road in Bloomington, Indiana. The apartments are rent subsidized and generally rented to families, not students. *Sharp Testimony.*

12. South Leonard Springs Road is a thoroughfare with quick access to Highways 45 and 37, or Tapp Road to Highway 37. *Sharp Testimony.* There is city fire and police protection in this area together with access to shopping, medical and hospital facilities, and all public transportation. *Chambers Testimony.* A Wal-Mart was being developed in 1991. *Id.* These amenities were taken into consideration when the land committee developed the land base rates. *Id.*

13. Woodland's representative questioned Ms. Sharp about the Land Order during the State hearing. In answer to his questions, Ms. Sharp said that land sales data supported the Land Order, and that the land commission met and had a local appraiser, realtors, and other land commission members set up the data. Because information had been filed in different places over time, Ms. Sharp would not provide the data at the hearing. No documentation was submitted demonstrating that Ms. Sharp had been asked about, or asked for, this information prior to the hearing.

14. Three other apartment complexes in the area are valued at $1.00/square foot; namely: Park Square (Orchard Glenn), Forest Green, and a privately owned complex. *Chambers Testimony.* Monroe County did not vary from the Land Order, and Woodland was treated like any other apartment land in the Zone 3 area. *Sharp Testimony.*

15. Woodland argues that the value assigned to its apartment land is too high. Woodland seeks a value of "around" $.50/square foot (*Board Ex. A/Form 130 petition*), or $.60/square foot (*Board Ex. A/Form 131 petition*), or $.57/square foot (*Murray Testimony*).

16. Its representative bases Woodland's claim for a reduction in value upon certain sales data collected. *Petitioner's Ex. A.* This sales data includes sales from 1989 through 1997, and reflects various locations, zoning, and development

aspects. *Murray Testimony, Petitioner's Exs. A and B.* The sales range from approximately $9,400/acre to approximately $30,000/acre. *Petitioner's Ex. A.* Not only did the sales prices of properties identified in Woodland's sales data vary, but land in the same general vicinity varied too, e.g., sale 2/CA sold for $30,984/acre while sale 3/CA sold for $21,132/acre. *Petitioner's Ex. B.*

17. Woodland did not weigh or make adjustments to account for factors such as location of the property in its analysis of the sales data collected (*Petitioner's Ex. A).* Instead, Woodland averaged the per acre cost, resulting in a price of $15,935/acre. *Murray Testimony.*

18. If the $1.00/square foot value currently assigned to the apartment land at issue were converted to an acreage basis, the land would be valued at $43,560/acre. *Murray Testimony.*

19. At the hearing, a value of $.57/square foot ($25,000/acre) was declared reasonable by Woodland. *Murray Testimony.* This value took (unknown) site costs into consideration. *Id.*

20. Ms. Murray opined that the location of the apartment land is inferior to the location of the land identified in Woodland's sales data (15 sales). The value requested and declared by Woodland is greater than the sales price of 12 sales identified in *Petitioner's Exs. A and B.*

21. Ms. Murray also opined that land value should increase the closer it is to the town or University. The information provided does not support that opinion, or at least the information does not explain why that opinion is correct. For example, Sale # 6 ($26,836) does not appear to be any closer to the town or University than Sale # 17 ($12,200/acre). *See Petitioner's Ex. B.*

Conclusions of Law

1. The Petitioner is statutorily 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. Ind. Code §§ 6-1.1-15-1, -2.1, and –4. See also the Form 130/131 petition. 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 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 Board. 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 Board, however, of the State Board 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, the State Board examines the question of whether challenges to land orders may be made at the State level of review.

2. The State Board 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 Board's decision.

B. Burden

7. Ind. Code § 6-1.1-15-3 requires the State Board to review the actions of the PTABOA, but does not require the State Board to review the initial assessment or undertake reassessment of the property. The State Board 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 Board is entitled to presume that its actions are correct. "Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies." *Bell v. State Board of Tax Commissioners,* 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.

9. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice,* § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128. *See also* Ind. Code § 4-21.5-2-4(a)(10) (Though the State Board is exempted from the Indiana Administrative Orders & Procedures Act, it is cited for the proposition that Indiana follows the customary common law rule regarding burden).

10. Taxpayers are expected to make factual presentations to the State Board 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 Board is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *Whitley,* 704 N.E. 2d at 1119 (citing *Clark v. State Board of Tax Commissioners,* 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).

11. The taxpayer's burden in the State Board's administrative proceedings is two-fold: (1) the taxpayer must identify properties that are similarly situated to the contested property, and (2) the taxpayer must establish disparate treatment between the contested property and other similarly situated properties. In this way, the taxpayer properly frames the inquiry as to "whether the system prescribed by statute and regulations was properly applied to individual assessments." *Town of St. John V,* 702 N.E. 2d at 1040.

12. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State Board is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State Board 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 Board's final determination even though 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 Board'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.

Conclusions Regarding Land Value

25. For the reasons set forth below, the State Board determines that Woodland cannot challenge the Land Order values by way of the Form 130/131 appeal process. Alternatively, the State Board determines that Woodland's evidence fails to demonstrate error in the assessment.

General principles of land valuation in Indiana.

26. Indiana's approximately 3 million land properties are valued on a mass appraisal basis.

35. The General Assembly has recognized that assessing officials cannot provide a commercial-grade/fee appraisal for every parcel in the State, but must instead

rely on mass appraisal techniques commonly used by tax assessors throughout the United States. *State Board of Tax Commissioners v. Indianapolis Racquet Club, Inc.,* 743 N.E. 2d 247, 251 (Ind. 2001); Ind. Code § 6-1.1-31-3(4)(permits the use of "generally accepted practices of appraisers, including generally accepted property assessment valuation and mass appraisal principles and practices").

36. The Tax Court has similarly recognized the necessity of mass appraisal practices (and some of the flaws). *See King Industrial Corp. v. State Board of Tax Commissioners*, 699 N.E. 2d 338, 343, n. 4 (Ind. Tax 1998)(use of land classifications are commonly used to save time and money when assessing property).

37. Land valuation - through land orders - is the one part of Indiana's assessment system that actually approximates fair market valuation through the use of sales data.

38. Ind. Code § 6-1.1-31-6(a)(1) states that land values shall be classified for assessment purposes based on acreage, lots, size, location, use, productivity or earning capacity, applicable zoning provisions, accessibility, and any other factor that the State Board determines by rule is just and proper.

39. By rule, 50 IAC 2.2-2, the State Board approved the use of actual sales data as a proxy for some of the criteria listed by Ind. Code § 6-1.1-31-6. *Indianapolis Racquet Club, Inc.,* 743 N.E. 2d at 251. Such practice has implicitly been authorized by the General Assembly. *Id.*

40. For the 1995 assessment, the county land valuation commission determined the value of non-agricultural land (e.g. commercial, industrial, and residential land) by using the rules, appraisal manuals and the like adopted by the State Board. 50 IAC 2.2-2-1. *See also* Ind. Code §§ 6-1.1-4-13.6 (West 1993) and -31-5 (West

1989). Accordingly, each county land valuation commission collected sales data and land value estimates and, on the basis of that information, determined the value of land within the County. 50 IAC 2.2-4-4 and -5. The county land valuation committee then held a public hearing on the land order values. Ind. Code § 6-1.1-4-13.6(e)(West 1993); *See Mahan v. State Board of Tax Commissioners*, 622 N.E. 2d 1058, 1061 (Ind. Tax 1993).

41. The State Board reviewed the land orders established by the county land valuation committee, and could make any modifications deemed necessary for uniformity and equality purposes. Ind. Code § 6-1.1-4-13.6(f)(West 1993); *Mahan*, 622 N.E. 2d at 1061. After the State Board completed its review of the county land order, the State Board was required to give notice to the affected assessors. In turn, only county and township assessors could appeal the State Board's determination of values. *Id* at 4-13.6(g); Poracky *v. State Board of Tax Commissioners*, 635 N.E. 2d 235, 239 (Ind. Tax 1994)("An appeal of a land order, just as an appeal of a judgment or order, must follow the prescribed procedural mandates.") The final stage in the process provided for dissemination of the State Board's final decision on the land order: "[t]he county assessor shall notify all township assessors in the county of the values as determined by the commission and as modified by the [State Board] on review or appeal. Township assessors shall use the values as determined by the commission and modified by the State Board in making assessments." Ind. Code § 6-1.1-4-13.6(h).

Taxpayers must challenge Land Order values in a timely and appropriate manner – at the local level <u>before the State Board adopts the Land Order.</u>

42. The Tax Court has consistently held that taxpayers must follow the required appeals procedures when challenging property tax assessments. *The Kent Company v. State Board of Tax Commissioners*, 685 N.E. 2d 1156, 1158 (Ind. Tax 1997)("The law is well-settled that a taxpayer challenging a property tax assessment must use the appropriate means of doing so"); Williams *Industries v.*

State Board of Tax Commissioners, 648 N.E. 2d 713, 718 (Ind. Tax 1995)(The legislature has created specific appeal procedures by which to challenge assessments, and taxpayers must comply with the statutory requirements by filing the proper petitions in a timely manner).

43. As previously stated, Ind. Code § 6-1.1-4-13.6(e)(West 1993) provided for a public hearing held by the local officials regarding valued contained within the county land order. Once the public hearing was held, the only statutory means for requesting a change or challenging a land order was an administrative appeal to the State Board *by the county and township assessors*. Ind. Code § 6-1.1-4-13.6(g)(West 1993); *Poracky*, 635 N.E. 2d at 238 & 39.

44. Taxpayers did not have the right to challenge the values established by the county land orders after the county land commission made a determination on them.

45. The State Board is aware of Tax Court decisions that go against limiting taxpayers' rights to challenge land order values at the State administrative level. *Zakutansky v. State Board of Tax Commissioners*, 691 N.E. 2d 1365 (Ind. Tax 1998).

46. Moreover, the Tax Court implicitly found that Ind. Code § 6-1.1-4-13.6 (West 1989) violated the requirements of due course of law (due process) because the statute did not provide for taxpayer hearings prior to the State Board's "final say" on land values. *Town of St. John III*, 690 N.E. 2d at 373, n. 2, & 384, n. 31. (It is believed that the Tax Court also found that the amended version of Ind. Code § 6-1.1-4-13.6, effective 1998, remedied the Court's due process concerns. *Town of St. John III*, 690 N.E. 2d at 384, n. 31).

47. The State Board respectfully concludes that *Town of St. John V* changed the landscape regarding the issue of taxpayers' entitlement to challenge land order values.

48. Article X, § 1, of the Indiana Constitution was the basis of the Tax Court's ruling that a taxpayer may challenge his land order valuation in an individual appeal. *Zakutansky*, 691 N.E. 2d at 1368.

49. The Tax Court's basis for its finding was reversed by the Supreme Court in *Town of St. John V*. The Property Taxation Clause (Article X, § 1, of the Indiana Constitution) "[R]equires . . . a system of assessment and taxation characterized by uniformity, equality, and just valuation, but the Clause does not require absolute and precise exactitude as to the uniformity and equality of each individual assessment. *The tax system must also assure that individual taxpayers have a reasonable opportunity to challenge whether the system prescribed by the statute and regulations was properly applied to individual assessments, but the Clause does not create a personal, substantive right of uniformity and equality." Town of St. John V,* 702 N.E. 2d at 1040. (Emphasis added).

50. Further, the Tax Court's finding that the assessment system violated the Due Course of Law Clause in *Town of St. John III* was expressly nullified by the Supreme Court in *Town of St. John V,* 702 N.E. 2d at 1040, n. 8.

51. Accordingly, a taxpayer is not constitutionally entitled to file an appeal to the State challenging the values established by a promulgated land order on an individual appeal basis. Taxpayers may, however, administratively appeal the application of the land order to his assessment (e.g., the taxpayer's property should have been valued from one section of the land order rather than another).

52. Furthermore, the statutes do not give taxpayers the right to challenge land order valuation.

53. Indiana courts have consistently held that a statute does not require interpretation unless a statute is unclear and ambiguous. *Joyce Sportswear Co. v. State Board of Tax Commissioners*, 684 N.E. 2d 1189 (Ind. Tax 1997). Unambiguous language within a statute cannot be construed in a manner that expands or limits its function. *Cooper Industries, Inc. v. Indiana Department of State Revenue*, 673 N.E. 2d 1209 (Ind. Tax 1996). Words, unless statutorily defined, are to be given their plain, ordinary, and usual meaning given in the dictionary. *Knauf Fiber Glass, GmbH v. State Board of Tax Commissioners*, 629 N.E. 2d 959 (Ind. Tax 1994).

54. It is just as important to recognize what a statute does not say as it is to recognize what a statute does say. *Peele v. Gillespie*, 658 N.E. 2d 954 (Ind. App. 1995); Million *v. State*, 646 N.E. 2d 998 (Ind. App. 1995). Concerning land orders, the statute clearly said that county and township assessors could appeal to the State Board. The statute does not give taxpayers the right to challenge land order values after the public hearing at the county level.

55. Although statutory construction is a judicial task, it is also the task of the administrative agency charged with administering the statute. *Riley at Jackson Remonstrance Group v. State Board of Tax Commissioners*, 628 N.E. 2d 1260 (Ind. Tax 1994).

56. Time after time, the General Assembly has shown that it knows how to enact legislation that gives taxpayers the right to review by the State Board. For example: (1) the State Board reviews applications for Enterprise Zone Inventory Credits and issues a determination regarding eligibility under Ind. Code § 6-1.1-20.8-3, (2) the State Board reviews the denial of property tax exemptions under Ind. Code § 6-1.1-11-8, (3) the State Board reviews the denial of a deduction for

rehabilitated residential property under Ind. Code § 6-1.1-12-25.5, (4) the State Board reviews the denial of a deduction for resource recovery systems under Ind. Code § 6-1.1-12-28.5, and the State Board reviews the denial of a deduction for coal conversion systems, hydroelectric power devices, and geothermal energy heating/cooling devices under Ind. Code § 6-1.1-12-35.

57. For matters concerning Enterprise Zone Inventory Credits, rehabilitated residential property, coal conversion systems, and the like, the General Assembly quite explicitly provided for an administrative review by the State. The General Assembly did not, however, provide for State review by taxpayers challenging land order valuations. Such silence is meaningful. To repeat, in construing a statute, it is just as important to recognize what the statute does not say as it is to recognize what the statute does say. The statutes regarding land orders do not provide for a taxpayer appeal to the State Board regarding land order values. If the General Assembly meant for such an appeal to be available to taxpayers, it could easily have said so in clear terms.

58. Further, it is absurd to conclude that the General Assembly somehow forgot provide for a taxpayer's right to appeal land order values when it explicitly provided for such an appeal to the State Board by county and township assessors. It is just as absurd to conclude that the General Assembly chose to implicitly and obliquely provide for a taxpayer's appeal to the State Board regarding land order valuation, when the General Assembly explicitly and clearly provided for such an appeal by the local assessors. Statutes are not construed in a manner that requires absurd results. *Matonovich v. State Board of Tax Commissioners,* 705 N.E. 2d 1093 (Ind. Tax 1999). Again, if the General Assembly meant for such an appeal to be available to taxpayers, it could have easily said so in clear terms. It did not.

59. The absence of explicit or plausible implicit appeal rights is easily explained. Once a land order is promulgated, every parcel of property in the county is

assessed according to it. Such "across the board" application results in uniform land value. If individual taxpayers are able to question valuation on an individual appeal basis, uniformity ceases to exist. The State Board has an obligation to ensure uniform assessments on a *mass appraisal* basis. *Indianapolis Racquet Club,* 743 N.E. 2d at 250 (Particularized judgment regards individual parcels of land is not required).

60. The State Board recognizes the Form 130/131 petition process (Ind. Code §§ 6-1.1-15-1 through –4) is "triggered" by a local assessment. Through the General Assembly has provided for individual assessment appeals, neither the Constitution nor the statutes creates entitlement to make every challenge desired.

61. Prohibiting taxpayers from challenging certain aspects of the assessment system is not peculiar, and the Tax Court recognizes that taxpayers cannot challenge every aspect of the assessment system in individual appeals, i.e., taxpayers cannot challenge base rates provided by the cost schedules in the Regulation. *Town of St. John III*, 690 N.E. 2d at 374; Dawkins *v. State Board of Tax Commissioners*, 659 N.E. 2d 706, 709 (Ind. Tax 1995).

62. Instead, the challenges that can be made by way of the statutory Form 130/131 administrative appeal process are limited or qualified by Ind. Code § 6-1.1-4-13.6(g)(West 1993). Only by reading the statutes in such a way - taxpayers can challenge the application of the land order to individual assessments, but cannot challenge the underlying values of the same - is a harmonious statutory scheme preserved.

Properties with peculiar attributes may receive
land value adjustments by way of influence factors.

63. Though taxpayers are not entitled to challenge land order values, they are entitled to receive adjustments to land values if their properties possess peculiar

attributes that do not allow them to be lumped with surrounding properties for land value purposes. Such adjustments, either upward or downward adjustments, can be made by way of influence factors applied to the property. *Phelps Dodge v. State Board of Tax Commissioners*, 705 N.E. 2d 1099, 1105 (Ind. Tax 1999).

The Petitioner failed to demonstrate that the value assigned to the property by way of the Land Order is incorrect.

64. Assuming *arguendo* that taxpayers are entitled to challenge land order values in individual appeals, they must present probative evidence to demonstrate that the assessment is incorrect. Woodland failed to make such a case in this appeal.

65. The Petitioner's contention that the land should be based on $.57/square foot ($25,000/acre) fails for several reasons.

66. The sales data (*Petitioner's Exs A. & B.*) do not reflect erroneous or disparate tax treatment under the existing rules of the State Board.

67. Woodland's sales were for a broad based time period (1989 through 1997), but land value for time in controversy is based upon 1991 information. 50 IAC 2.2-4-2.

68. Woodland did not weigh or make adjustments to account for factors such as location of the property in its sales data. 50 IAC 2.2-4-4(c)(delineation based upon geographic areas); International Association of Assessing Officials, *Property Assessment Valuation,* 2nd ed. at 303 & 302 (land valuation by sales comparison approach with adjustments for factors such as location differences).

69. Instead of making adjustments, sales *(Petitioner's Ex. A)* were averaged and then Woodland declared a higher than average value to be reasonable for its property in this appeal.

70. On the subject of location, Woodland opines that its land was located in an inferior location when compared to all of the sales in *Petitioner's Exs. A and B.* Woodland's sales information contains 15 sales, but the value Woodland declares reasonable for its land in this appeal exceeds the value of 12 of them. Without explanation, this seems contradictory.

71. Woodland's sales information included sales of both residential and commercial property. No adjustment was made for this difference. In fact, no mention was made of it.

72. Credibility as to opinion of value is not fostered when three different values were opined by Woodland during the course of administrative appeal proceedings -- $.50/square foot (*Form 130 petition)*, $60/square foot (*Form 131 petition)*, $.57/square foot *(Murray Testimony).*

73. For the reasons above, unsubstantiated opinion as to value was offered by Woodland in this appeal. *Champlin Realty Co. v. State Board of Tax Commissioners,* 2001 WL 290916 (Ind. Tax 2001); *Fleet Supply, Inc. v. State Board of Tax Commissioners,* 740 N.E. 2d 598 (Ind. Tax 2000); *Quality Stores, Inc. v. State Board of Tax Commissioners,* 740 N.E. 2d 939 (Ind. Tax 2000).

74. For all the above reasons, the Petitioner did not meet their burden in this appeal. Accordingly, there is no change in the assessment as a result of this issue.

Issued this 25th day of January 2002.