

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #s: 45-001-02-1-4-00730
45-001-02-1-4-00731
45-001-02-1-4-00732

Petitioner: Lake County Trust #4610
c/o Michael Kibler

Respondent: Department of Local Government Finance

Parcel #s: 001254000320065
001254000320064
001254000320035

Assessment Year: 2002

The Indiana Board of Tax Review (the “Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held for each of the above captioned parcels in February 2004 in Lake County, Indiana. The Department of Local Government Finance (the “DLGF”) determined the Petitioner’s property tax assessment for each of those parcels and notified the Petitioner on March 31, 2004.
2. The Petitioner filed Form 139L petitions for each parcel on April 28, 2004.
3. The Board issued the notices of hearing to the parties dated March 14, 2005.
4. A consolidated hearing was held on April 14, 2005, in Crown Point, Indiana before Special Master Beth Hammer.

Facts

5. The subject parcels are contiguous parcels located in Gary, Indiana, Calumet Township. Parcel 001254000320065 (Petition #45-001-02-1-4-00730) is vacant land located at 4800 W. 4th Avenue. Parcel 001254000320064 (Petition #45-001-02-1-4-00731) contains a building, chain link fence, and asphalt paving, and it is located at 4550 W. 5th Avenue. Parcel 001254000320035 (Petition #45-001-02-1-4-00732) contains asphalt paving, and it is located at 4310 W. 5th Avenue.
6. For purposes of this Final Determination, Findings and Conclusions, the Board will refer to the three parcels at issue collectively as the “subject parcels.” When referring to the

parcels individually, the Board will use the last four numerals of the parcel number (i.e. “Parcel 0064,” “Parcel 0065,” and “Parcel 0035”).

7. The Special Master did not conduct an on-site visit of the parcels.
8. Assessed Value of subject parcels as determined by the DLGF:

Petition #	Parcel #	Land	Improvements
45-001-02-1-4-00730	0065	\$66,700	-0-
45-001-02-1-4-00731	0064	\$234,100	\$197,700
45-001-02-1-4-00732	0035	\$15,100	\$4,700
9. Assessed Value requested by Petitioner on the Form 139L petitions: The Petitioner did not complete this section of the petitions. When questioned at the hearing, the Petitioner’s representative, Michael Kibler, estimated the total value of the subject parcels to be \$50,000 for land and \$100,000 for the building contained on Parcel 0064.
10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
11. Persons sworn in at hearing:
 - For Petitioner: Michael Kibler, “Authorized Representative”¹
 - For Respondent: Stephen Yohler, DLGF

Issues

12. Summary of Petitioner’s contentions in support of an alleged error in the assessment:
 - a) The subject parcels are contiguous parcels and should be combined and assessed as a single parcel. *Kibler testimony.*

Petition # 45-001-02-1-4-00730 (Parcel 0065)
 - b) Parcel 0065 is a vacant field. The parcel is valued as undeveloped usable land. The Petitioner contends that the parcel instead should be valued as undeveloped unusable land. *Kibler testimony.*
 - c) Parcel 0065 can only be accessed through the other two parcels. *Kibler testimony.*
 - d) The Petitioner contends the land value of \$43,560 per acre assigned to Parcel 0065 is arbitrary. *Kibler testimony.*

¹ Mr. Kibler submitted a letter purporting to authorize him to appear on behalf of the Petitioner in all assessment appeals. *Board Ex. A (Pet. Nos. 00730 – 00732)*. The letter is signed by Mr. Kibler as the “Authorized Representative Lake County Trust #4610. *Id.* This letter is insufficient to comply with the Board’s procedural rules concerning representation. *See Ind. Admin. Code tit. 52, r. 1-6-1.* Given that the Respondent failed to object, the Board addresses the merits of Petitioner’s claims.

Petition # 45-001-02-1-4-00731 (Parcel 0064)

- e) The Respondent classified a portion of Parcel 0064 as primary land and the remainder as undeveloped usable land. The back portion of this parcel should be valued as undeveloped unusable land. *Kibler testimony.*
- f) There is no access to 4th Avenue [US 12] from Parcel 0064. There is a guard rail that runs along the back of the parcel. *Kibler testimony; Pet'r Exs.2, 3.*
- g) Parcel 0064 is not worth anything without Parcel 0035, which allows for ingress and egress. *Kibler testimony; Pet'r Ex.2.*
- h) Parcel 0064 contains a 60,000 square foot building. The Petitioner uses the building as a secondary steel warehouse. It is a former retail department store that was built in 1960. The subject building was empty for twenty (20) years before the Petitioner purchased all three of the subject parcels at a tax sale in 1995 for \$40,000. The Petitioner spent \$60,000 to \$70,000 in repairs and upgrades. *Kibler testimony.*
- i) The subject building is valued as a truck terminal despite the fact that it has never been used as a truck terminal. The subject building is a warehouse and should be assessed as a light warehouse. *Kibler testimony.*
- j) The subject building should be assessed based upon a quality grade of "D-2." This is the grade previously assigned to the subject building. The asphalt paving should receive a grade of "D-." *Kibler testimony; Pet'r Ex. 1.*
- k) The roof of the subject building is severely deteriorating. The Petitioner received a quote of \$204,000 to replace the roof. *Kibler testimony; Pet'r Exs. 1, 5.*
- l) Cole Layer Trumble ("CLT") assigned 50% obsolescence to the subject building. The building is entitled to additional obsolescence due to the horrible condition of the roof. In addition, changes in the production quality of steel have resulted in less secondary product being available. Scrap steel market prices have risen causing secondary steel products to be sold to mini mills and not stored. Only 20% of the subject building is being used. *Kibler testimony; Pet'r Ex. 1.*
- m) The Petitioner presented information concerning the assessments, listings and sale prices for four other properties to show that Parcel 0064 is assessed in excess of its market value. The first property, located at 3830 W 4th Avenue [Wayne's Tank & Trailer Repair], is approximately one mile from the subject parcels. That property is assessed for \$547,000. A sales disclosure form shows that the property sold for \$175,000 in 1999. *Kibler testimony; Pet'r Ex. 4a.*

- n) The second property, located at 901 Grant Street, is four miles away from the subject parcels and has an assessed value of \$636,400. That property currently is listed for sale at \$300,000. *Kibler testimony; Pet'r Ex. 4a.*
- o) The third property is located in Hammond, where the neighborhood is 20 to 30 times better than the subject neighborhood. That property consists of 22 acres of industrial land listed for \$20,000 per acre. *Kibler testimony; Pet'r Ex. 4c.*
- p) The fourth property, an industrial park located at Columbia and Goslan in Hammond, which is listed for sale at \$35,000 per acre. *Kibler testimony; Pet'r Ex. 4d.*
- q) The Petitioner listed the subject parcels for sale in October 2004, with a listing price of \$599,000. The Petitioner presented a letter from its realtor explaining that the price was objectionable to potential buyers. *Kibler testimony; Pet'r Ex. 4e.*

Petition # 45-001-02-1-4-00732 (Parcel 0035)

- r) Parcel 0035 provides ingress and egress to the other two parcels. *Kibler testimony.*
- s) The land value of \$43,560 per acre is too high. *Kibler testimony.*
- t) The parcel contains asphalt paving. The property record card shows a "C" grade for the asphalt paving. The Petitioner contends the paving was laid in 1960 and should be graded "D-."

13. Summary of Respondent's contentions in support of the assessment:

Petition # 45-001-02-1-4-00730 (Parcel 0065)

- a) The Respondent presented a property record card, plat map, and Neighborhood Land Summary Sheet for Parcel 0065. *Yohler testimony; Resp't Exs. 1 - 3 (Pet. No. 00730).*
- b) Parcel 0065 is located in neighborhood 02598. The parcel is valued as land-type 13, undeveloped usable, at a rate of \$39,204 per acre. *Yohler testimony; Resp't Exs. 1, 3 (Pet. No. 00730).*
- c) The land values used by the Respondent are based on sales within the area. *Yohler testimony.*

Petition # 45-001-02-1-4-00731 (Parcel 0064)

- d) The Respondent presented the property record card for, and photographs of, Parcel 0064. The subject building has been given 79% physical depreciation plus an additional 50% obsolescence depreciation, which brings its value down to \$168,000. The subject building has a quality grade of "D" and a condition rating of "fair."

Yohler testimony; Resp't Ex 1. (Pet. No. 00731). The Respondent believes that the 50% obsolescence given to the subject building is sufficient. *Yohler testimony.*

- e) Parcel 0064 contains almost 9.8 acres of land, which is broken down into primary and undeveloped usable land. The undeveloped useable portion of the parcel totals 7.785 acres. The undeveloped usable land is assessed at the rate of \$39,204 per acre for a total value of \$225,410. The Respondent, however, also applied a negative influence factor of 29% to the undeveloped useable land, which further lowers the value of that portion of the subject parcel to \$160,040. The Respondent assessed the primary land at the rate of \$43,560 per acre for a total of \$74,050. There was no influence factor given to the primary land. The total land value for Parcel 0064 is \$234,100. *Yohler testimony; Resp't Exs. 1, 4 (Pet. No. 00731).*

Petition # 45-001-02-1-4-00732 (Parcel 0035)

- f) The Respondent presented a property record card, photograph, plat map, and Neighborhood Land Summary Sheet for Parcel 0035. *Yohler testimony; Resp't Exs. 1-4 (Pet. No. 00732).*
- g) The property record card shows that the parcel contains asphalt paving. *Yohler testimony; Resp't Ex. 1 (Pet. No. 00732).*
- h) The land is valued per square foot. The Respondent presented the computations for the \$1.24 per square foot rate used to assess the parcel. The total land value for Parcel 0035 is \$15,100. *Yohler testimony; Resp't Exs. 1, 4 (Pet. No. 00732).*

Record

- 14. The official record for this matter is made up of the following:
 - a) The Petitions.
 - b) The tape recording of the hearing labeled BTR #1459.
 - c) Exhibits:

For Petition # 45-001-02-1-4-00730

- Petitioner Exhibit 1: Reasons for the appeal
- Petitioner Exhibit 2: Highlighted map
- Petitioner Exhibit 3: Photographs (8)
- Petitioner Exhibit 4: Sales and Properties on the Market
 - a) 3830 W 4th Ave (Wayne's Tank)
 - b) 901 Grant Street
 - c) 3200 Gibson Transfer Road (Sammons Trucking)
 - d) Columbia & Goslan Ave.

- e) Letter with comments regarding subject parcels currently listed for sale

Petitioner Exhibit 5: Quote to replace roof

Respondent Exhibit 1: Subject Property Record Card (PRC)

Respondent Exhibit 2: Plat Map Page

Respondent Exhibit 3: Land Calculations/NBHD Land Summary Sheet

Board Exhibit A: Form 139L petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

For Petition # 45-001-02-1-4-00731

Petitioner Exhibits: Same as listed above

Respondent Exhibit 1: Subject Property Record Card (PRC)

Respondent Exhibit 2: Subject Photograph

Respondent Exhibit 3: Plat Map Page

Respondent Exhibit 4: Land Calculations/NBHD Land Summary Sheet

Board Exhibit A: Form 139L petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

For Petition # 45-001-02-1-4-00732

Petitioner Exhibits: Same as listed above

Respondent Exhibit 1: Subject Property Record Card (PRC)

Respondent Exhibit 2: Subject Photograph

Respondent Exhibit 3: Plat Map Page

Respondent Exhibit 4: Land Calculations/NBHD Land Summary Sheet

Board Exhibit A: Form 139L petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

- d) These Findings and Conclusions.

Analysis

15. The most applicable laws are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and

specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 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).

- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 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”).
 - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioner’s claims generally may be grouped into the following restated contentions: (1) the subject parcels should be combined and assessed as one unit; (2) the Respondent erroneously classified portions of Parcels 0064 and 0065 as useable undeveloped land; (3) the Respondent assigned improper quality grades to the subject building and paving; (4) the Respondent assigned an incorrect condition rating to the subject building; (5) the subject building is entitled to additional obsolescence; (6) the Respondent erred by assessing the subject building using the cost schedules for a truck terminal rather than the cost schedules for a light warehouse; and (7) the combined assessment of the three parcels is excessive in light of the assessments and sale prices of other commercial and industrial properties.

Combining the Parcels

17. The Petitioner did not provide sufficient evidence to support its contention that the Respondent erred by not combining the three parcels into a single unit for purposes of assessment. This conclusion was arrived at because:
- a) The Indiana Code provides a mechanism for taxpayers to request that contiguous parcels be combined for purposes of assessment. *See* Ind. Code § 6-1.1-5-16. Pursuant to that statute, however, the taxpayer must make a written request that the parcels be consolidated. *Id*. In addition, that statute provides that an assessing official “shall consolidate more than one (1) existing contiguous parcel into a single parcel if the assessing official has knowledge that an improvement to the real property is located on or otherwise significantly affects the parcels.” *Id*.
 - b) The Petitioner provided no evidence to show that it had made a written request to an assessing official to consolidate the subject parcels. Similarly, the Petitioner did not present evidence that any improvements were located on all three parcels or that the improvements significantly affected all three parcels.
 - c) The Petitioner therefore failed to establish a prima facie case of error.

Classification of Land as Useable Undeveloped

18. The Petitioner did not provide sufficient evidence to support its contention that the Respondent erroneously classified portions of Parcels 0064 and 0065 as usable undeveloped land. This conclusion was arrived at because:
- a) The Petitioner contends that the portions of land within Parcels 0064 and 0065 currently classified as usable undeveloped land instead should be classified as unusable undeveloped land.
 - b) The Real Property Assessment Guidelines for 2002 – Version A (“Guidelines”) establish four (4) general categories of commercial and industrial land, the following two (2) of which are at issue in this appeal:
 - Usable Undeveloped - the amount of acreage that is vacant and held for future development
 - Unusable Undeveloped - the amount of vacant acreage that is unusable for commercial or industrial purposes, and not used for agricultural purposes.

REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A, ch. 2 at 85 (incorporated by reference at 50 IAC 2.3-1-2).

- c) The Guidelines also describe what the base rate for each of the above referenced types of land represents:

For usable undeveloped land, the base rate represents the January 1, 1999, value of vacant or raw land that is zoned for commercial and industrial purposes. This type of land has incurred no on-site development cost. . . .

For unusable undeveloped land, the base rate represents the January 1, 1999, value of undeveloped land that is zoned for commercial or industrial purposes. This type of land has incurred no on-site development costs and normally represents an area of vacant land with restrictions. There may be restrictions against building because there are environmental hazards on the property or because the area has been designated as a wetland area by the federal government. . . .

GUIDELINES, ch.2 at 86.

- d) The Petitioner did not provide any evidence to show either that any of the land at issue is unusable for commercial purposes or the presence of any restrictions comparable to those described in the Guidelines. The Petitioner therefore failed to present a prima facie case of error with regard to the land classification used by the Respondent.

Quality Grade

19. The Petitioner did not provide sufficient evidence to support its contention that the Respondent used improper quality grades in assessing the subject building and pavement. This conclusion was arrived at because:
- a) The Petitioner contends that the quality grade used to assess the subject building should be “D-2” as opposed to “D.” The Petitioner further contends that the asphalt paving on Parcels 0064 and 0035 should be assessed based upon a quality grade of “D-.” The Respondent assigned the paving on both parcels a quality grade of “C.” *Resp’t Ex. 2 (Pet. Nos. 00731, 00732).*
 - b) To establish a prima facie case of error with regard to the quality grade used to assess an improvement, a taxpayer must submit probative evidence that the assigned grade is incorrect together with probative evidence establishing the correct grade. *Sollers Pointe Co. v. Dep’t of Local Gov’t Fin.*, 790 N.E.2d 185, 191 (Ind. Tax Ct. 2003). The Petitioner cannot establish a prima facie case on grade based only on conclusory statements. *Sollers Point*, 790 N.E.2d at 191; *See also Whitley Prods., Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998) (taxpayer can offer probative evidence tied to the descriptions of the various grades).
 - c) Here, Mr. Kibler largely made only conclusory statements regarding what he believed to be the proper grades to assign to the subject building and paving. Mr. Kibler did indicate the subject building previously had been graded at “D-2.” That fact, however, is irrelevant to the current assessment. *See Glass Wholesalers, Inc. v. State Bd. of Tax Comm’rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991) (stating that each tax year stands alone).
 - d) The Petitioner therefore did not establish a prima facie case of error regarding the quality grades assigned to the subject building and pavement.

Condition Rating

20. The Petitioner did not provide sufficient evidence to support its contention that the Respondent assigned an improper condition rating to the subject building. This conclusion was arrived at because:
- a) The subject building is assessed as being in “fair” condition. *See Resp’t Ex. 1 (Pet. No. 00731).*
 - b) The Petitioner pointed to a portion of Appendix F of the Guidelines stating, “Structures demonstrating lower maintenance and suffering from more inutility should be given structure condition classifications of fair, poor, and very poor. Examples of these types of structures would include a structure that has a severely

deteriorated roof or an industrial structure located away from any major form of transportation.” GUIDELINES, App. F at 6.

- c) The Guidelines also provide descriptions to aid assessing officials in determining the proper condition rating to apply to a commercial and industrial buildings. Thus, the Guidelines describe a building in “fair” condition as exhibiting the following characteristics: “Evidence of deferred maintenance; need for replacement or major overhaul of some physical components. Building has inadequate utility and services for structures of like age and design. Fair location for the type of structure.” GUIDELINES, app. F at 23.
- d) Similarly, the Guidelines describe a building in “poor” condition as exhibiting the following characteristics: “Many repairs needed; the structure suffers from extensive deferred maintenance. It suffers from major inutilities in that it lacks several amenities that the majority of structures of its age and design offer. Undesirable location for the type of structure.” GUIDELINES, app. F at 23.
- e) The Petitioner did not present any evidence regarding the condition of the subject building aside from its need for a new roof. Thus, the Petitioner did not demonstrate that the building lacks amenities that the majority of structures of its age and design offer, or that it is in an undesirable location for its type of structure, both of which are representative of buildings in “poor” condition. Moreover, the need for a new roof is consistent with the Guidelines’ description of a building in “fair” condition, which includes the need for replacement of physical components.
- f) Based on the foregoing, the Petitioner failed to establish a prima facie case of error with regard to the condition rating assigned to the subject building.

Obsolescence

21. The Petitioner did not provide sufficient evidence to support its contention that the subject building suffers from obsolescence depreciation beyond the amount for which it is already credited. This conclusion was arrived at because:
- a) The Petitioner contends that the subject building suffers from obsolescence depreciation in excess of the 50% currently assigned to the building by the Respondent.
 - b) The Guidelines account for normal depreciation through the assignment of typical life expectancies and structure condition classifications. GUIDELINES, App. F at 4-7. This normal depreciation includes both typical physical deterioration and typical obsolescence. *Id.* at 8. Any additional loss in value from atypical forms of obsolescence must be estimated separately from normal depreciation. *Id.*
 - c) Consequently, a taxpayer alleging that it is entitled to an adjustment for abnormal obsolescence has a two-prong burden of proof: (1) the taxpayer must identify the

causes of obsolescence, and (2) the taxpayer must quantify the amount of obsolescence. *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230, 1233 (Ind. Tax 1998).

- d) The Petitioner failed to present any evidence to quantify the amount of obsolescence purportedly suffered by the subject building. In fact, Mr. Kibler did not even state the amount of obsolescence the Petitioner was requesting. The Petitioner therefore failed to make a prima facie case of entitlement to additional obsolescence depreciation.

Selection of Model

- 22. The Petitioner did not provide sufficient evidence to support its contention that the Respondent calculated the depreciated cost new of the subject building based upon the incorrect cost schedule. This conclusion was arrived at because:
 - a) The property record card shows the Respondent calculated the depreciated replacement cost new of the subject building based upon the cost schedules applicable to a General Commercial Industrial (GCI) truck terminal. *See Resp't Ex. 1 (Pet. No. 0031)*.
 - b) According to Mr. Kibler, the subject building has never been used as a truck terminal. *Kibler testimony*. The subject building was built as a retail store in 1960. *Id.* The Petitioner purchased the subject building in 1995 and has used it as a warehouse for secondary steel. *Id.* The Petitioner contends the subject building should be valued as a light warehouse. *Id.*
 - c) The Guidelines provide models of typical improvements in order to “facilitate the assessor in estimating the replacement cost new of the subject improvements as of the effective valuation date to serve as the *starting point* in the application of the cost approach to value” GUIDELINES, App. D at 2 (emphasis added). The models are divided into three major categories based upon occupancy type: General Commercial Mercantile (GCM), General Commercial Industrial (GCI) and General Commercial Retail (GCR). *Id.* Each major category has several use-specific models within it, such as banks, retail stores, and motels. *Id.* at 2-41.
 - d) The foundation, framing and basic shell construction are category specific and reflect floor and roof loads, doors, fenestration and store fronts typical of the occupancy. *Id.* at 2. Floor heights, interior finish and mechanical features are specific to the individual models within the broader categories. *Id.* The purpose of the model descriptions is to assist assessors in determining whether adjustments are necessary to account for variations between the subject improvement and the model selected to compute its replacement cost new. *Id.*
 - e) Thus, while the use designations in the individual models provide a useful guide for assessors in determining the appropriate model to use in assessing a given building, the choice of model is governed by the physical descriptions contained in those

models. The more closely a building conforms to a model's description, the fewer the adjustments that the assessor will need to make.

- f) Consequently, it was incumbent on the Petitioner to do more than simply state that the subject building was never used as truck terminal. Instead, the Petitioner was required to demonstrate that the subject building's physical characteristics more closely conformed to the model for a GCI light warehouse than to the model for a GCI truck terminal warehouse. The Petitioner, however, presented no evidence in that regard.
- g) Based on the foregoing, the Petitioner failed to establish a prima facie case of error based upon the Respondent's use of the GCI truck terminal warehouse model to assess the subject building.

Purportedly Comparable Properties

23. The Petitioner did not provide sufficient evidence to support its contention that the subject parcels are improperly assessed in comparison to the assessments, listing prices and sale prices of comparable properties. This conclusion was arrived at because:
- a) The Petitioner presented property sales and listings of four properties. The Petitioner contends this evidence shows the market value of the subject property is lower than its assessed value.
 - b) In making this argument, the Petitioner essentially relies on a sales comparison approach to establish the market value-in-use of the subject parcels. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market."); *See also Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005).
 - c) In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.* The Petitioner also seeks to compare the assessment of the subject parcels to the *assessments* of other properties. The requirements for assigning probative value to evidence derived from a sales comparison approach, however, are equally applicable where a party relies upon a comparison of assessments.

- d) The Petitioner did not provide a comparison of the four properties and the subject parcels as required by the court in *Long*. The Petitioner provided few details regarding any of the properties beyond their respective sales or listing prices and assessed values. The Petitioner did not compare things such as shape, access or topography of the respective parcels of land. *See Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (holding that taxpayer failed to establish comparability of parcels of land where, among other things, taxpayer did not compare the topography and accessibility of parcels). The Petitioner likewise failed to engage in even the most basic comparison of improvements. The Petitioner did not compare the size, design, or quality of construction of the various improvements. Consequently, the Petitioner's evidence concerning the sales and listing prices of four properties lacks probative value.

Conclusion

24. The Petitioner failed to make a prima facie case with regard to any of its contentions. The Board finds for the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessments of the subject parcels should not be changed.

ISSUED: February 9, 2006

Commissioner,
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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.