

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition #:** 41-018-02-1-3-00003  
**Petitioner:** Columbus Automotive  
**Respondent:** Needham Township Assessor (Johnson County)  
**Parcel #:** 4100180103404  
**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. The Petitioner initiated an assessment appeal with the Johnson County Property Tax Assessment Board of Appeals (“PTABOA”) by written document dated July 10, 2003.
2. The Petitioner was mailed notice of the decision of the PTABOA on October 24, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on November 18, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated May 11, 2004.
5. The Board held an administrative hearing on July 21, 2004, before the duly appointed Administrative Law Judge, Alyson Kunack.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Milo Smith, Petitioner’s Representative
  - b) For Respondent: Mark Alexander, County Appraiser

**Facts**

7. The property is classified as industrial, as is shown on the property record card for parcel #4100180103404.
8. The Administrative Law Judge (“ALJ”) did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Johnson County PTABOA:  
 Land \$133,600          Improvements \$827,200          Total \$960,800
10. Assessed Value requested by Petitioner on the Form 131 petition:  
 Land \$65,000          Improvements \$650,000          Total \$715,000
11. At the hearing, the Petitioner presented a property record card with the revised values requested by the Petitioner:  
 Land \$75,000          Improvements \$638,300          Total \$713,300

### **Issues**

12. Summary of Petitioner’s contentions in support of alleged errors in the assessment:

#### Land Valuation

- a) The Petitioner contends that it purchased the land for \$78,493.00 on November 10, 1997. *Smith testimony; Petitioner Exhibit 8.* Although the Form 131 petition lists the purchase price as \$64,674.57, the Petitioner’s representative testified that he did not know why he listed that amount other than it might have been what the Petitioner told him. *Smith testimony.*
- b) The Petitioner also presented listing information for land located near the subject property in support of its claim that the land is assessed in excess of its fair market value. *Smith testimony; Petitioner Exhibits 11 & 13.* The Petitioner stated the list price of the property is \$39,500 per acre and it is zoned as PUD (Planned Unit Development). *Smith testimony; Petitioner Exhibit 1.*
- c) The Petitioner further contends that the Respondent improperly assessed drainage and utility easements on the property. *Smith testimony; Petitioner Exhibit 9.* According to the Petitioner, these easements should not be assessed to an adjacent property owner such as the Petitioner pursuant to I.C. 6-1.1-4-14 and the Real Property Assessment Guidelines for 2002 – Version A, Ch. 2, p. 28 (“Guidelines”). *Smith Testimony; Petitioners Exhibits 14 & 15.*
- d) The Petitioner deducted the utility and drainage easements and then used an adjusted rate of \$45,500 per acre to arrive at the requested land value of \$75,000. *Smith testimony; Petitioner Exhibit 16.*

#### Pricing Schedule

- e) The Petitioner also contends that that the subject building is a pre-engineered structure and should be assessed using the General Commercial Kit (GCK) pricing schedule under the Guidelines. *Smith testimony.*
- f) The Petitioner presented the construction proposal for the subject building. *Smith testimony; Petitioner Exhibit 5.* The Petitioner contends that the proposal shows the subject building to be pre-engineered with a design load of 20 pounds. *Id.* The Petitioner contends that the GCK model shows a maximum load weight of 30 pounds. *Smith testimony; Petitioner Exhibit 5, page 3; Petitioner Exhibit 6.*

- g) The Petitioner also presented a photograph of the subject building showing x-bracing, tapered columns, steel girts and purlins, which the Petitioner contends are consistent with the GCK model. *Smith testimony; Petitioner Exhibit 10.*
- h) The Petitioner also apparently contends that the walls of the building are consistent with the GCK model. *Smith testimony.* In support of this position, the Petitioner presented excerpts from the Guidelines setting forth wall types, and explained that the subject building was priced using wall type 3. *Smith testimony; Petitioner Exhibits 2 & 3.* The Petitioner appears to contend that such a wall type is consistent with the GCK model. *Id.*

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

- a) The Respondent contends that the Petitioner has simply questioned the methodology used in the assessment rather than addressing the overall value of the property.

**Record**

14. The official record for this matter is made up of the following:

- a) The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR #5547.
- c) Exhibits:
  - Petitioner Exhibit 1: Property record card (“PRC”) for subject property
  - Petitioner Exhibit 2: Real Property Assessment Guideline, Appendix G, p. 14
  - Petitioner Exhibit 3: Real Property Assessment Guideline, Chapter 6, p.13
  - Petitioner Exhibit 4: Real Property Assessment Guideline, Chapter 6, p. 9
  - Petitioner Exhibit 5: Construction proposal for subject building
  - Petitioner Exhibit 6: Real Property Assessment Guideline, Appendix D, p. 38
  - Petitioner Exhibit 7: Real Property Assessment Guideline, Chapter 2, p. 13
  - Petitioner Exhibit 8: Closing statement for November 10, 1997 sale of subject land
  - Petitioner Exhibit 9: Copy of subject plat map
  - Petitioner Exhibit 10: Interior photo of subject property
  - Petitioner Exhibit 11: Sketch of neighboring property offered for sale
  - Petitioner Exhibit 12: Aerial photo of subject property and neighboring property listed for sale
  - Petitioner Exhibit 13: Current listing sheet of sale properties
  - Petitioner Exhibit 14: Real Property Assessment Guideline, Chapter 2, p. 28
  - Petitioner Exhibit 15: Ind. Code § 6-1.1-4-14
  - Petitioner Exhibit 16: Revised PRC using pricing requested by the Petitioner
- Board Exhibit 1: Form 131 petition
- Board Exhibit 2: Notice of Hearing
- d) These Findings and Conclusions.

## Analysis

15. The most applicable governing cases 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. Wash. 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.

## Land Valuation

16. The Petitioner provided sufficient evidence to support its contention that the assessment of the subject land is excessive. This conclusion was arrived at because:

- a) The Petitioner attacks the assessment of the subject land in essentially two ways. First, the Petitioner contends that the assessment exceeds the fair market value of the subject land as demonstrated by the amount for which the Petitioner purchased the land and by the listing price of a purportedly comparable parcel. Next the Petitioner contends that the Respondent misapplied the Guidelines because it assessed to the Petitioner portions of the subject land that are subject to easements.
- b) With regard to the Petitioner’s first contention, a bona fide sale of the subject property is typically the best evidence of the market value of that property. Here, the Petitioner presented evidence that it purchased the subject land consisting of 2.36 acres on November 10, 1997, for \$78,493.00. *Smith testimony; Petitioner Exhibit 8*. Petitioner also presented testimony that the land was developed at the time of the purchase. *Smith testimony*. If not contradicted, this evidence is sufficient to establish the fair market value in use of the subject property as of January 1, 1999 – the relevant valuation date for the 2002 reassessment.
- c) However, the Petitioner has requested an assessment in an amount less than the purchase price of the subject land. The Petitioner based its request, in part, on evidence of a purportedly comparable parcel listed for sale in 2004 for \$39,500.00 per acre. *Smith testimony; Petitioner Exhibits 11 – 12*. However, the Petitioner did not address how that land is comparable to the subject land, other than to indicate that it is located in close proximity to the subject land. *Smith testimony*. For example, the Petitioner did not address characteristics of the respective

parcels such as topography, geographical features and accessibility. *See, Blackbird Farms Apartments, LP v. Department of Local Government Finance*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). The Petitioner likewise failed to explain whether any adjustment to the listing price was necessary due to the difference in zoning classification between the two properties.

- d) Moreover, even if the Petitioner had established comparability, the amount for which the Petitioner purchased the subject land, at a time reasonably close to the relevant valuation date, is much stronger evidence of the fair market value of that land than is the listing price of a neighboring parcel almost five years removed from the valuation date.
- e) The Petitioner further supports its requested valuation by claiming that its property is subject to certain easements. The Petitioner contends that the area subject to such easements should not be included in the subject land's assessment. Even if the Petitioner were correct in its claims concerning the appropriate methodology under the Guidelines for valuing land subject to such easements, evidence concerning the amount for which the Petitioner purchased the land is significantly more probative of its fair market value-in-use.
- f) Based on the foregoing, the Petitioner presented a prima facie case that the land valuation of the subject property was excessive and that the correct assessment is \$78,500.00. *See, Guidelines, Ch. 2, p. 81* (total residential land value is rounded to the nearest \$100.00).

17. The Respondent failed to rebut the Petitioner's prima facie case with regard to the valuation of the subject land. This conclusion was reached because:

- a) The Petitioner established a prima facie case regarding the value of his land. The burden shifted to the Respondent to present evidence to impeach or rebut the Petitioner's evidence concerning its purchase price of the subject land.
- b) The Respondent presented no evidence to rebut or impeach the Petitioner's evidence concerning the purchase of the subject land.
- c) While it is possible that the market for land in the relevant area appreciated between November 10, 1997, and January 1, 1999, the Respondent did not provide any evidence to demonstrate that was the case.
- d) Instead, the Respondent simply contends that the Petitioner did not address the overall value of the subject property. However, the Respondent doesn't dispute that it relied upon the Guidelines in assessing the subject property. The Guidelines seek to derive the fair market value-in-use of an entire property by determining the fair market value-in-use of separate components – the land and improvements – and adding those values together. The fact that one of those components – in this case the land – does not reflect fair market value is therefore evidence that the overall assessment is excessive. If the Respondent contends that the overall assessment still reflects the property's fair market value-in-use, it is incumbent upon the Respondent to present evidence in support of that contention.

## Pricing Schedule

18. The Petitioner presented sufficient evidence to support its contention that the assessment of the subject building was computed from the incorrect pricing schedule. This conclusion was arrived at because:

- a) The Petitioner contends that the assessment of the subject building is excessive because the Respondent applied an inappropriate schedule to determine the depreciated replacement cost new of the building. Specifically, the Petitioner contends that the Respondent should have valued its property using the GCK cost schedule as opposed to the General Commercial Industrial (GCI) cost schedule. *Smith testimony*.
- b) The Guidelines provide for the assessment of improvements based upon the depreciated replacement cost new of such improvements. *2002 REAL PROPERTY ASSESSMENT MANUAL, p.13 (incorporated by reference at 50 IAC 2.3-1-2); Guidelines, at 1-2*. With regard to commercial and industrial buildings, the Guidelines provide three models (General Commercial Retail (GCR), General Commercial Mercantile (GCM) and GCI) on the assumption that there are certain elements of construction for given use types. *Guidelines, Ch. 6, p. 7*. The Guidelines also provide a fourth model, GCK, which is not dependent on use type. The GCK model is reflective of the economical quality and low cost of materials used in constructing certain light, pre-engineered, or “kit” buildings. *Miller Structures, Inc. v. State Bd. Of Tax Comm’rs, 748 N.E.2d 943, 949 (Ind. Tax Ct. 2001)*.
- c) The Tax Court has stated that the key elements used to identify a kit building are the types of interior columns and roof beam support used in the building. *Componx, Inc. v. State Board of Tax Commissioners, 683 N.E.2d 1372, 1374 (Ind. Tax Ct. 1997)*. Kit building interior columns and roof beam supports may include cold cee channel supports, tapered columns, H-columns, and steel pole or post columns. *Miller Structures, 748 N.E.2d at 950*. Consequently, “it should not be difficult for taxpayers to identify those characteristics in an improvement alleged to [be a kit building]. *Whitley Products, Inc. v. State Board of Tax Commissioners, 704 N.E.2d 1113, 1121 (Ind. Tax Ct. 1998)*.
- d) In addition, the Guidelines also provide that, in a steel frame kit building, the maximum total roof load weight is 30 pounds. *Guidelines, Appendix D, p. 40*. The total roof load is defined as the sum of the roof “snow load” or “live load,” whichever is greater, and the “collateral load.” *Id. at 41*.
- e) The Petitioner presented evidence of kit type interior columns and roof beam supports through the proposal,<sup>1</sup> which called for use of a 8 ½” zee and/or cee secondary framing members and through evidence that the subject building contains tapered columns. *Smith testimony; Petitioner Exhibits 5 & 10*. The proposal also called for a total roof load of 25 pounds (20 pounds live load plus 5 pounds collateral load). *Petitioner Exhibit 5*. That roof load is consistent with the GCK model, which calls for a maximum total roof load of 30 pounds. *Guidelines, Appendix D, p. 40*.

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<sup>1</sup> The Petitioner testified that the proposal was accurate in response to the Respondent’s question as to whether the building was actually built in accordance with the proposal.

- f) The Petitioner therefore presented sufficient evidence to establish a prima facie case that the subject building should have been assessed using the GCK schedule. Consequently, the burden shifted to the Respondent to introduce evidence impeaching or rebutting the Petitioner's evidence.
19. The Respondent failed to rebut the Petitioner's prima facie case that the subject building was assessed using the incorrect price schedule. This conclusion was reached because:
- a) The Respondent questioned the Petitioner's representative regarding whether the site was paved and the number of sprinklers and plumbing fixtures contained in the subject building. The Petitioner's representative was not able to respond specifically to the Respondent's questions. At most, this casts some doubt as to the credibility of the representative's assertion that, to his knowledge, the subject building was constructed in accordance with the proposal. However, it does not sufficiently impeach the Petitioner's evidence that the subject building contains the kit type features in question.
  - b) The Respondent also questioned the Petitioner's representative regarding whether the cost stated in the proposal was the amount actually charged for the construction of the subject building. Evidence of the actual construction cost of a building may be relevant to determining its depreciated replacement cost new, and hence its fair market value-in-use. Had the Petitioner actually answered the Respondent's question and either affirmed the cost in the proposal or provided a different amount, the Respondent might have argued that the construction cost represented the fair market value of the subject building. However, the Respondent withdrew its question and the Petitioner did not answer whether the cost set forth in the proposal was the actual amount paid for construction of the subject building.

## **Conclusions**

### Land Value

20. The Petitioner made a prima facie case that the subject land was incorrectly assessed and the Respondent failed to rebut the Petitioner's evidence. The Board finds in favor of the Petitioner and orders that valuation should be changed to \$78,500.00.

### Pricing Schedule

21. The Petitioner established a prima facie case that the subject building was incorrectly assessed using an inappropriate pricing schedule, and the Respondent failed to rebut the Petitioner's evidence. Accordingly, the subject building should be valued from the GCK pricing schedule. Because the subject building is now assessed from a different schedule all appropriate adjustments should be made.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: \_\_\_\_\_

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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.**