

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Issues

1. The issues presented for consideration by the Board were:

ISSUE 1 – *Whether the grain bins (listed on lines #9 and #10, on the Summary of Improvements of the PRC) should be depreciated from the 20-year life table.*

ISSUE 2 – *Whether there is an error in the computation of the assessed value of office/warehouse on line #3 on the Summary of Improvements of the PRC.*

ISSUE 3- *Whether the office /warehouse (line #3), the multi-use building (line #20), the small shop (lines #24) and the utility storage building (line #25), on the Summary of Improvements of the PRC, should be priced from the GCK schedule.*

ISSUE 4- *Whether the elevator (line #1), the annex (line #2), the office/warehouse (line #3), the annex (line #7), the grain bins (lines #9 and #10), and the multi-use building (line #20), on the Summary of Improvements of the PRC, warrant abnormal obsolescence.*

Procedural History

2. Pursuant to Ind. Code § 6-1.1-15-3, Ronald D. Fetters filed a Form 131 on behalf of Gibson County Farm Bureau Association, Inc. (the Petitioner), petitioning the Board to conduct an administrative review of the above petition. The Form 131 was filed on July 30, 2001. The determination of the Board of Review (BOR) was issued on October 1, 1996.¹

¹ The timeliness of filing will be discussed in Other Findings.

Hearing Facts and Other Matters of Record

3. Pursuant to Ind. Code § 6-1.1-15-4 a hearing was held on March 26, 2002 in Princeton, Indiana before Paul Stultz the duly designated Administrative Law Judge authorized by the Board under Ind. Code § 6-1.5-5-2.

4. This hearing was held in conjunction with 3 other petitions filed on behalf of the Petitioner for different parcels. The other petitions are: 26-019-95-1-3-00001; 26-017-95-1-3-00003; and 26-006-95-1-3-00011. Each of these petitions is addressed in separate findings.

5. The following persons were present at the hearing:

For the Petitioner:

Mr. Ronald D. Fetters, Tax Representative
Mr. Francis H. Turner, Controller, Gibson County Farm Bureau Co-op
Mr. James O. Elliott, General Manager, Gibson County Farm Bureau
Co-op

For the Respondent:

No representatives were present.

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

For the Petitioner:

Mr. Ronald D. Fetters
Mr. Francis H. Turner
Mr. James O. Elliott.

7. The following exhibits were presented:

For the Petitioner:

Petitioner's Exhibit 1:

A. Two page statement of the issues,

- B. Copies of 50 IAC 2.2-12-6.1(Commercial and industrial yard improvement depreciation tables), 50 IAC 2.2-11-6 (Schedule A.4), 50 IAC 2.2-12-6 (Grain elevator depreciation)
- C. Copy of the subject property record cards (PRC)
- D. Copy of Tax Representative Certification
- E. Copy of disclosure statement
- F. Copy of letter to Ms. Barnett dated March 11, 2002

Petitioner's Exhibit 2 - Six photos of the subject improvement

Petitioner's Exhibit 3 -Five photos of the office warehouse on line #3 of the PRC

Petitioner's Exhibit 4 - Five photos of the small shop on line #24 of the PRC

Petitioner's Exhibit 5 - Four photos of the utility storage building on line #25 of the PRC

Petitioner's Exhibit 6 - Questionnaire prepared by Mr. Fretters and answered by Mr. Elliott

Petitioner's Exhibit 7- Questionnaire prepared by Mr. Fretters and answered by Mr. Elliott

Petitioner's Exhibit 8- Four photos of the small shop on line #20 of the PRC

8. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:

A. Copy of the Form 131

B. Notice of Hearing

C. Response to Notice of Defect including:

- 1. Letter to Ms. Chrisman from Mr. Fetters dated December 26, 2001
- 2. Letter to Mr. Fetters from Ms. O'Connor dated June 28, 2001 with copies of the four Form 130 petitions filed on behalf of Petitioner
- 3. Copies of the following for the four Forms 131
 - i. Notice of Defect in Completion of Assessment Appeal Form
 - ii. Copy of letter to Ms. Chrisman from Mr. Fetters dated January 28, 2000
 - iii. Copy of first page of Form 131

iv. State Board Final Determination

4. Letter (page two of three) to Ms. Chrisman from Mr. Fetters dated March 02, 1999
 5. Letter to Ms. Chrisman from Mr. Fetters dated November 02, 1999
 6. Letter to Mr. Greubel from Mr. Fetters dated November 04, 1999
 7. Copy of two page letter to Mr. Greubel from Mr. Fetters dated February 12, 2000 with copies of proof of mailing
 8. Letter to Ms. Meighen from Mr. Fetters dated August 29, 2000
 9. Letter to Ms. O'Connor from Mr. Fetters dated March 05, 2001
 10. Letter to Ms. O'Connor from Mr. Fetters dated June 18, 2001.
9. The subject property is a grain elevator and farm supply business located at RR 2 Highway 64 East, Princeton (Patoka Township, Gibson County). The Administrative Law Judge did not view the subject property.
10. At the hearing, the Petitioner stated the year under appeal is 1995 and the values determined by the BOR are: Land: \$31,330; and Improvements: \$259,030.

Jurisdictional Framework

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

Indiana's Property Tax System

13. The Indiana Constitution requires Indiana to create a uniform, equal, and just system of assessment. See Ind. Const. Article 10, §1.

14. Indiana has established a mass assessment system through statutes and regulations designed to assess property according to what is termed “True Tax Value.” See Ind. Code § 6-1.1-31, and 50 Ind. Admin. Code 2.2.
15. True Tax Value does not precisely equate to fair market value. See Ind. Code § 6-1.1-31-6(c).
16. An appeal cannot succeed based solely on the fact that the assessed value does not equal the property’s market value. See *State Board of Tax Commissioners v. Town of St. John*, 702 N.E. 2d 1034, 1038 (Ind. 1998) (*Town of St. John V*).
17. The Indiana Supreme Court has said that the Indiana Constitution “does not create a personal, substantive right of uniformity and equality and does not require absolute and precise exactitude as to the uniformity and equality of each individual assessment”, nor does it “mandate the consideration of whatever evidence of property wealth any given taxpayer deems relevant”, but that the proper inquiry in tax appeals is “whether the system prescribed by statute and regulations was properly applied to individual assessments.” See *Town of St. John V*, 702 N.E. 2d at 1039 – 40.
18. Although the Supreme Court in the *St. John* case did declare the cost tables and certain subjective elements of the State’s regulations constitutionally infirm, it went on to make clear that assessment and appeals must continue to be determined under the existing rules until new regulations are in effect.
19. New assessment regulations have been promulgated, but are not effective for assessments established prior to March 1, 2002. See 50 Ind. Admin. Code 2.3.

State Review and Petitioner's Burden

20. The State does not undertake to reassess property, or to make the case for the petitioner. The State decision is based upon the evidence presented and issues raised during the hearing. See *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113 (Ind. Tax 1998).
21. The petitioner must submit 'probative evidence' that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113 (Ind. Tax 1998), and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E. 2d 1230 (Ind. Tax 1998). ['Probative evidence' is evidence that serves to prove or disprove a fact.]
22. The petitioner has a burden to present more than just 'de minimis' evidence in its effort to prove its position. See *Hoogenboom-Nofzinger v. State Bd. of Tax Comm'rs*, 715 N.E. 2d 1018 (Ind. Tax 1999). ['De minimis' means only a minimal amount.]
23. The petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. 'Conclusory statements' are of no value to the State in its evaluation of the evidence. See *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E. 2d 329 (Ind. Tax 1999). ['Conclusory statements' are statements, allegations, or assertions that are unsupported by any detailed factual evidence.]
24. Essentially, the petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. See *State Bd. of Tax Comm'rs v. Indianapolis Racquet Club, Inc.*, 743 N.E.2d 247, 253 (Ind., 2001), and *Blackbird Farms Apartments, LP v. DLGF* 765 N.E.2d 711 (Ind. Tax, 2002).

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

Discussion of Issues

Issue 1: *Whether the grain bins (listed on lines #9 and #10, on the Summary of Improvements of the PRC) should be depreciated from the 20-year life table.*

26. The Petitioner contends that the subject improvements should be depreciated from the commercial/industrial twenty-year life expectancy table, with 60% depreciation applied to the grain bin on line #9 and 35% applied to the grain bin on line #10.
27. The local officials have depreciated from the commercial/industrial thirty-year life expectancy table, with 50% depreciation applied to the grain bin on line #9 and 25% applied to the grain bin on line #10.

28. The applicable rule governing this issue is:
- 50 IAC 2.2-12-6.1**
Commercial and industrial yard improvement depreciation tables
The twenty-year life expectancy table is used for wood and chain fencing, asphalt and concrete paving, guardrails, wood water storage tanks, underground fuel oil tanks, *steel tanks and corrugated metal bins*, ... and lumber sheds.
29. Evidence and testimony considered particularly relevant to this determination include the following:
- a. The County assessed the 290,000-bushel grain bin at \$.86 per bushel (before applying obsolescence) as a bolted or welded steel bin. The County assessed the 52,000-bushel grain bin at \$.84 per bushel (before applying obsolescence) as a corrugated metal bin.
 - b. The Petitioner presented photographs of the subject, the current property record card (PRC), and a copy of 50 IAC 2.2-12-6.1.

Analysis of Issue 1

30. On the subject PRC, the County identified the grain bins as metal bins and assessed them from the section titled “Steel Tanks and Corrugated Metal Bins.” The County then applied the 30-year life table to depreciate the subject tanks.
31. However, steel tanks and corrugated metal bins should be depreciated from the 20-year life table. See 50 IAC 2.2-12-6.1. The Petitioner presented the PRC of the two bins showing the local officials assessed the two items as steel tanks and corrugated metal bins. This is probative evidence that the two items were either steel tanks or corrugated metal bins, and therefore should be depreciated as such.
32. The Respondent did not present any evidence rebutting the Petitioner’s case. Accordingly, there is a change in the assessment of these two items.

Issue 2: *Whether there is an error in the computation of the assessed value of office/warehouse on line #3 on the Summary of Improvements of the PRC.*

33. The Petitioner contends that the office/warehouse should have a grade factor of 70%, or D-1 as shown on the Form 11.
34. The local officials assessed the property with an 85% factor, or D+1.
35. The applicable rule governing Issue 2 is:

50 IAC 2.2-11-6, Schedule F

This schedule lists the quality grade and design factors.

36. Evidence and testimony considered particularly relevant to this determination include the following:
 - a. The Form 11 (attached to Board Exhibit A) shows this improvement to have a grade of D-1, or 70%.
 - b. The PRC shows this improvement to have a grade of D-1.
 - c. The sketches and the pricing attached to the PRC show that an 85% factor was used to calculate the reproduction cost.

Analysis of Issue 2

38. The Petitioner above mentioned evidence supports the Petitioner's contention that there was an error in calculating the assessed value of the office/warehouse.
39. The improvement should be graded a D-1, or 70%, as indicated on the Form 11. There is a change in the assessment as a result of this issue.

Issue 3: *Whether the office /warehouse (line #3), the multi-use building (line #20), the small shop (lines #24) and the utility storage building (line #25), on the Summary of Improvements of the PRC, should be priced from the GCK schedule.*

40. The Petitioner claims the appealed improvements are pre-engineered buildings that should be priced from the GCK schedule.
41. The local officials have assessed the improvements from the GCI and GCM schedules with grades of either D or D-1.
42. The applicable rules governing Issue 3 are:

50 IAC 2.2-10-6.1(a)

Provides an explanation of how to determine a base rate. Specifically, base rates are given for a range of perimeter to area ratios for specific construction types for various use and finish types. Models are provided as conceptual tools to use to replicate reproduction cost of a structure using typical construction materials assumed to exist for a given use type. Use type represents the model that best describes the structure.

Because of the numerous models provided, the base rates are divided into four association groupings, namely: (1) General Commercial Mercantile (“GCM”); (2) General Commercial Industrial (“GCI”); (3) General Commercial Residential (“GCR”); and (4) General Commercial Kit (“GCK”). Three of the four groupings contain use type descriptions in order to aid in selection. The GCK schedule is the exception.

50 IAC 2.2-10-6.1(a)(1)(D)

“...[G]CK does not include use type descriptions. This schedule is utilized for valuing pre-engineered pre-designed pole buildings, which are used for commercial and industrial purposes. A format has been developed to value the base building on a perimeter to area ratio basis and to adjust the value based on

various individual components of the building. Buildings classified as a special purpose design are not valued using the GCK pricing schedule.”

50 IAC 2.2-10-6.1(a)(7)

“Dock floor” is applicable to structures valued from the GCI schedule only.

43. Evidence and testimony considered particularly relevant to this determination include the following:
- A. The Petitioner submitted interior and exterior photographs of the improvements on line #3, #24, and #25 on the Summary of Improvements of the PRC and exterior photographs of the improvement on line #20.
 - B. The improvement on line #3 on the Summary of Improvements of the PRC is a pre-engineered, steel building with a finished open area for retail sales and an unfinished area for storage. The true tax value calculated using the GCK schedule is \$23,700. This building also contains a dock floor and an interior concrete block wall.
 - C. The improvement on line #24 on the Summary of Improvements of the PRC is a pre-engineered, steel building. It does not have a liner, insulation, or partitions; it has heat, lighting and is unfinished. The true tax value using the GCK schedule is \$9,800.
 - D. The improvement on line #25 on the Summary of Improvements of the PRC is a pole building, with no heat, no floor, no lights and no finish. The true tax value using the GCK schedule is \$21, 812.
 - E. The improvement on line #20 on the Summary of Improvements of the PRC was priced from the GCM schedule. It is of light steel construction and possibly could have been priced from the GCK schedule.

Analysis of Issue 3

44. The Petitioner submitted calculations and photographs to support the claim that the above mentioned improvements should be priced from the GCK schedule.

Improvements Shown on Line #3

45. The improvement on line #3 on the Summary of Improvements of the PRC is used as a retail area and storage facility. The interior photographs of the retail area do not show the entire area, but do show that there is an interior cement block wall. The exterior photographs show that the building may have a dock floor. Dock floors are only attributable to structures valued from the GCI schedule. See 50 IAC 2.2-10-6.1(a)(7).
46. The Petitioner testified that the retail area is finished open and the warehouse area is unfinished. Petitioner also testified that should pricing be changed to GCK, the structure would no longer qualify for a grade of D-1, and would need to be graded a C.
47. The Petitioner did not address the block wall or clarify the existence of a dock floor as depicted in Petitioners Exhibit #3. Nor was their discussion regarding the additional cost, if any, associated with them. Petitioner did not explain whether the block wall is or isn't a load bearing wall, whether the existence of a dock floor would disqualify the structure from the GCK schedule, or whether the costs attributed to them should be accounted for with increased grade or an addition of actual costs. Only three interior photographs were submitted, so it is not known whether the block wall shown is the only one present in the structure.
48. The Petitioner did not present a prima facie case that the current assessment is incorrect or that the requested change was correct. The Petitioner did not present probative evidence of error.
49. The Petitioner did not establish a prima facie case with regard to the improvement on line #3 on the Summary of Improvements of the PRC. No change in the schedule is made as a result.

Improvement Shown on Line #24

50. The Petitioner submitted interior and exterior photographs of the improvement on line #24 on the Summary of Improvements of the PRC and testified that the subject building is a metal building with girts and purlins, but has no liner, no insulation, no partitions, and no interior finish.
51. The photographs and testimony show the interior and exterior and establish a prima facie case. The Respondent was not present to present any evidence in support of their assessment. The Petitioner submitted proposed pricing, taking into consideration the aspects of the GCK schedule. The photographs of the entire building, testimony, and proposed pricing are probative evidence of an error in the assessment, and what the correct assessment should be.
52. The Petitioner calculated the price of the improvement using the GCK schedule and a grade of "C". The Petitioner's calculation is correct.
53. The Petitioner has met the burden of proof regarding the improvement on line #24 on the Summary of Improvements of the PRC. Accordingly, a change in the assessment is made to the small shop building on line #24.

Improvement Shown on Line #25

54. The Petitioner submitted interior and exterior photographs of the improvement on line #25 on the Summary of Improvements of the PRC and testified that subject building is a metal pole building. The building has no liner, no insulation, no partitions, no floor, no heat, no lights, and no interior finish.
55. The photographs and testimony show the interior and exterior and establish a prima facie case. The Respondent was not present to present any evidence in support of their assessment. The Petitioner submitted proposed pricing, taking into consideration the

aspects of the GCK schedule. The photographs of the entire building, testimony, and proposed pricing are probative evidence of an error in the assessment, and what the correct assessment should be.

56. The Petitioner calculated the price of the improvement using the GCK schedule and a grade of “C”. The Petitioner’s calculation is correct.
57. The Petitioner has met the burden of proof regarding the improvement on line #25 on the Summary of Improvements of the PRC. Accordingly, a change in the assessment is made to the utility/storage building on line #25.

Improvement Shown on Line #20

58. The Petitioner submitted exterior photographs of the improvement on line #20 and the conclusory statement that it could have been priced from the GCK schedule.
59. The exterior photographs show that a portion of the building is concrete block. There are no interior photographs to indicate the components of construction and the Petitioner did not provide a calculation showing what, in his opinion, the correct assessment should be.
60. The Petitioner did not present a prima facie case that the current assessment is incorrect, nor show what the correct assessment should be. Accordingly, there is no change in the assessment of the multi-use building on line #20 on the Summary of Improvements of the PRC.

Issue 4: *Whether the elevator (line #1), the annex (line #2), the office/warehouse (line #3), the annex (line #7), the grain bins (lines #9 and #10), and the multi-use building (line #20), on the Summary of Improvements of the PRC, warrant abnormal obsolescence.*

61. The Petitioner contends that all the above improvements warrant 35% obsolescence, with the exception of the multi-use building (line#20 on the Summary of Improvements of the PRC), which warrants 30% obsolescence.
62. The current assessment reflects no obsolescence on these improvements.
63. The applicable rules governing Issue 4 are:

50 IAC 2.2-12-6

Note that in applying this method of depreciation to grain elevators, it is important to first consider functional obsolescence caused by excess capacity, a major cause of functional obsolescence in grain elevators. The determination of excess capacity requires a comparative analysis of historical and current operating data. A rule of thumb procedure employed by appraisers for lack of historical data is to consider 50% of the difference between the current operation capacity (preferably an average of the most recent years) and the rated capacity of the elevator (the capacity upon which the replacement cost is predicated) as excess. A corresponding reduction to the RCN estimate would be required prior to applying the age-life life method of depreciation discussed above. (age-life procedure omitted from this paragraph).

50 IAC 2.2-10-7(e)(1)

Functional obsolescence may be caused by, but is not limited to, the following:

- (A) Limited use or excessive material and product handling costs caused by an irregular or inefficient floor plan.
- (B) Inadequate or unsuited utility space.
- (C) Excessive or deficient load capacity.

50 IAC 2.2-10-7(e)(2)

Economic obsolescence may be caused by, but is not limited to, the following:

- (A) Location of the building is inappropriate for the neighborhood.
- (B) Inoperative or inadequate zoning ordinances or deed restrictions.

- (C) Noncompliance with current building code requirements.
- (D) Decreased market acceptability of the product for which the property was constructed or is currently used.
- (E) Termination of the need of the property due to actual or probable changes in economic or social conditions.
- (F) Hazards, such as the danger fro floods, toxic waste, or other special hazards.

64. The applicable case law governing the issue is:

***Ronald Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1233 (Ind. Tax 1998)**

Regarding obsolescence, the taxpayer has a two-prong burden of proof: (1) the taxpayer has to prove that obsolescence exists, and (2) the taxpayer must quantify it.

***Canal Square Limited Partners v. State Board of Tax Commissioners*, 694 N.E. 2d 806, 807 (Ind. Tax 1998)**

Obsolescence may be quantified using generally recognized appraisal principles.

65. Evidence and testimony considered particularly relevant to this determination include the following:

- A. The elevator facility was open on a full-times basis in 1995. It was operated by feed mill personnel and was losing money.
- B. There were too many elevators in the county, causing too much capacity.
- C. The rail loading capacity of the facility is not sufficient. The truck scales are too short to weigh correctly and the speed of the grain dumping is too slow.
- D. The elevator facility is now closed.
- E. The multi-purpose building (line #20) was vacant in 1995. The building is now being leased. The larger area is used for storage.
- F. The grain elevator is assessed at \$1.64 per bushel and the two annexes are assessed at \$1.33 per bushel per the property record card.

Analysis of Issue 4

66. The Petitioner submitted a written statement and testimony to support the claim for obsolescence.
67. The Petitioner testified that the elevator was operated with feed mill personal and was losing money. There was too much capacity caused by other elevators in the county, the loading capability was not sufficient, the truck scales were too short, and the speed of grain dumping was too slow. While these purported causes of obsolescence may lead to a loss in value, Petitioner failed to quantify the amount requested using recognized appraisal techniques.
68. The Petitioner did not provide any data to determine the 1995 operating capacity. Per 50 IAC 2.2-12-6, this information is critical in helping assessing officials determine the amount of loss in value caused by functional obsolescence. The Petitioner did not present a detailed comparison between the subject and surrounding facilities.
69. It is noted that the subject elevator has a base price of \$4.93 per bushel and was assessed at \$1.64 per bushel, based on a capacity of 25,000 bushel per the PRC. This is a 66% reduction in the base price. The annexes have a base price of \$1.61 per bushel, based on a capacity of 201,000 bushel and 200,000 bushel per the PRC and both were assessed at \$1.33 per bushel. This is a 17% reduction in the base price. From the facts just stated it can be determined that the assessment of the elevator was reduced for functional obsolescence.
70. For the above reasons, the State determined that the elevator (line #1) and the two annexes (lines #2 and #7) have had a reduction in the assessment to account for functional obsolescence. The Petitioner did not prove that any additional obsolescence was warranted for these improvements. Accordingly, no change in the assessment is made to these improvements.

71. The elements of functional and economic obsolescence can be documented using recognized appraisal techniques. *Canal Square Limited Partnership v. State Board of Tax Commissioners*, 694 N.E. 2d 801 (Ind. Tax 1998). These standardized techniques enable a knowledgeable person to associate cause and effect to value pertaining to a specific property.
72. Under the cost approach, there are five recognized methods used to measure depreciation, including obsolescence; 1. The sales comparison method, 2. The capitalization of income method, 3. The economic age-life method, 4. The modified economic age-life method, and 5. The observed condition (breakdown) method. IAAO Property Assessment Valuation at 156.
73. The Petitioner did not present any meaningful evidence or testimony concerning obsolescence for the office/warehouse, the grain bins, or the multi-purpose building. Mr. Elliott made a brief statement that the multi-purpose building was empty in 1995, that it is being leased at present, and that the larger area is used for storage. He did not use any of the recognized appraisal methods to prove that obsolescence exists. He made no attempt to quantify the alleged obsolescence. The Petitioner has not proven or quantified a loss in value to the subject improvements.
74. In this case, the Petitioner did not, present a prima facie case showing the current assessment is incorrect or that the obsolescence factors requested are correct. There is no change in the assessment of the office/warehouse, the grain bins, or the multi-purpose building as a result of this issue.

Other Findings

Timeliness of the Appeals

75. In May of 1996, the Petitioner's represented file four (4) Form 130 petitions with the Gibson County Auditor. The Petitioner claims that no notice of the Gibson County Board of Review was ever sent. Petitioner presented copies of letters sent to Mr.

Greubel, Auditor of Gibson County, as well as letters sent to Ms. Jane Chrisman and Ms. Marilyn Meighen of the State Board of Tax Commissioners. These letters detailed Petitioner's attempts to have notice sent to him. No letters from the above mentioned persons to Petitioner were included.

76. Petitioner also included several letters to Ms. Ann O'Conner, Public Access Counselor. On June 28, 2001, the Petitioner received from Ms. O'Conner a letter, and copies of four Form 130 petitions with the decision of the Gibson County Board of Review. The copies are file stamped by Ms. O'Conner on June 28, 2001. According to the Form 130 petitions, the County Board's decision was made in October of 1996.
77. No representative of the Respondent appeared at the hearing to testify whether notice was mailed to Petitioner in October of 1996, nor to explain, if notice was not sent, why it was not sent. For these reasons, the Board will accept the Form 131 petitions as timely filed petitions and consider all issues presented on them.

Summary of Final Determination

Determination of Issue 1: *Whether the grain bins (listed on lines #9 and #10, on the Summary of Improvements of the PRC) should be depreciated from the 20-year life table*

78. The Petitioner prevailed by a preponderance of the evidence on Issue 1. The grain bins (listed on lines #9 and #10 on the Summary of Improvements of the PRC) should be depreciated from the 20-year commercial life table. There is a change in the assessment with regard to this issue.

Determination of Issue 2: *Whether there is an error in the computation of the assessed value of office/warehouse on line #3 on the Summary of Improvements of the PRC.*

79. The Petitioner prevailed by a preponderance of the evidence on Issue 2. Accordingly, the office/warehouse should be assessed with the grade factor of 70%, or D-1 as shown on the Form 11 and the property record card.

Determination of Issue 3: *Whether the office /warehouse (line #3), the multi-use building (line #20), the small shop (lines #24) and the utility storage building (line #25), on the Summary of Improvements of the PRC, should be priced from the GCK schedule.*

80. The Petitioner prevailed by a preponderance of the evidence on Issue 3 concerning the improvements shown on lines #24 and #25 on the Summary of Improvements of the PRC. Accordingly, these two structures should be assessed using the GCK schedule. The State determines that the buildings should be assessed from the GCK schedule. Because the property is now assessed from a different schedule, all appropriate adjustments should be made. These adjustments may include, but are not limited to, grade and depreciation.

81. The Petitioner did not prevail by a preponderance of the evidence on Issue 3 concerning the improvements on lines #3 and #20 on the Summary of Improvements of the PRC. Accordingly, there is no change concerning these two structures.

Determination of Issue 4: *Whether the elevator (line #1), the annex (line #2), the office/warehouse (line #3), the annex (line #7), the grain bins (lines #9 and #10), and the multi-use building (line #20), on the Summary of Improvements of the PRC, warrant abnormal obsolescence.*

82. The Petitioner did not prevail by a preponderance of the evidence on Issue 4. There is no change in the assessment with regard to this issue.

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

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.