

**STATE OF INDIANA  
Board of Tax Review**

UNIVERSITY PARK ASSOCIATES, LTD	)	On Appeal from the Marion County Property Tax Assessment Board of Appeals
Petitioner	)	
v.	)	Petition for Review of Assessment, Form 131 Petition Nos. 49-140-95-1-4-00045 49-140-97-1-4-00004
MARION COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS and CENTER TOWNSHIP ASSESSOR,	)	Parcel No. 1071388
Respondents.	)	

**Findings of Fact and Conclusions of Law**

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**Issues**

1. Whether the grade factor assigned to the subject building is excessive.
2. Whether economic obsolescence is warranted for the subject building.
3. Whether the assessment is in accordance with the Indiana Constitution, the Indiana Property Tax Assessment Statutes, and the State's Assessment Regulation.

## 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 also be considered a finding of fact.
  
2. Pursuant to Ind. Code § 6-1.1-15-3, University Park Associates, Ltd (UPA) filed petitions requesting a review by the State. The Final Determinations of the Marion County Property Tax Assessment Board of Appeals (PTABOA) are dated January 28, 2000. The Form 131 Petitions were filed on February 24, 2000.
  
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on March 8, 2001, before Hearing Officer Debra Eads. Testimony and exhibits were received into evidence. Stephen Paul of Baker & Daniels represented UPA; Marta Haza and M. Lee Lamb appeared as witnesses for UPA; Jennifer Hoffman also was present on behalf of UPA. Brian McHenry represented the Marion County Assessor's Office. Ernest Clark represented the Center Township Assessor's Office.
  
4. At the hearing, the subject Form 131 petitions were made part of the record and labeled Board's Exhibit A. The Notices of Hearing are labeled Board's Exhibit B. In addition, the following exhibits were submitted into evidence:  
Petitioner's Exhibit 1 – a brief containing the following:
  - 1) Subject property record card;
  - 2) Photographs and floor descriptions of subject building;
  - 3) Professional qualifications of Mr. Lamb;
  - 4) Photographs and property record cards for Petitioner's purported comparable properties: parcels 1067282, 1096474, 1090349, 1004960, 9135724109 and 91-3572-0187;
  - 5) "Side-by-side" comparison of subject property and Market Tower, First Indiana Plaza and One Indiana Square;

- 6) Occupancy information for subject; and
- 7) Revenue information for subject building.

Respondent's Exhibit 1 – Marion County PTABOA brief including: Discussion of Grade, discussion of Obsolescence, Marion County Obsolescence Guidelines, PTABOA Field Inspection Report, exterior fabrication cost estimates, PTABOA Determination, photographs, and resume of Brian G. McHenry, Marion County PTABOA Hearing Officer.

5. The property is located at 300 North Meridian Street, Indianapolis, Center Township, Marion County, Indiana.
6. The Hearing Officer did not conduct an on-site inspection of the property.

**Issue 1 - Whether the grade factor assigned to the subject building is excessive.**

7. The office portion of the structure has been assigned a grade factor of "A". The Petitioner requests a grade factor of "A-2". Mr. Paul indicated that floors two through eight of the structure contain a parking garage with an assigned grade factor of "C+2"; the Petitioner is not contesting the assigned grade to that portion of the structure.
8. In support of the Petitioner's argument, Mr. Lamb testified that he was involved in the construction of the foundation of UPA's structure, as well as the construction of the foundation of the Market Tower; Mr. Lamb asserted these properties are comparable.
9. Mr. Lamb asserted that a commercial office building, such as the subject, must be an income producer and therefore the highest quality materials would generally not be utilized in construction of commercial office buildings. He further opined that the heating, ventilation, and air conditioning (HVAC) components of a

multi-story office building could comprise as much as 30-40% of the total building cost.

10. In further support of the Petitioner's position, Ms. Haza described the preparation of the weighted grade analysis (Petitioner's Exhibit 1, page 7), in which each floor was assigned a grade. Ms. Haza concluded that the best overall grade for the building is "A-2". The Petitioner also identified six purported comparable properties (Petitioner's Exhibit 1, tab 4) and introduced photographs of these buildings.
11. Ms. Haza also introduced a "side-by-side" comparison between UPA's property and other downtown Indianapolis office buildings (Market Tower, First Indiana Plaza, and One Indiana Square). The Petitioner identified these three properties as "the most comparable properties in Indianapolis" to the subject. Components of the interior finish of each of the three comparables were identified as superior, inferior, or comparable to the subject. (Petitioner's Exhibit 1, tab 5).
12. On behalf of the Respondents, Mr. Clark pointed out that the parking garage areas of the Petitioner's comparables had not been assigned a separate grade factor, and their inclusion in the composite grade calculation would result in a lower weighted average grade.
13. Also on behalf of the Respondents, Mr. McHenry testified that the polished granite on the exterior of the building represented an increase of 331% (by use of RS Means cost schedules) over the "C" model brick and block backup. Mr. McHenry used the cost comparison of exterior components in support of the assigned grade classification.
14. Mr. McHenry further described interior features of the building, including granite floors, cherry finished solid wood panels, oak handrails and granite treads on interior stairways and "buck cut mahogany" doors and wainscoting.

15. Mr. McHenry contended that the expense of the exterior of the building supported the “A” grade and that the interior features serve to solidify the “A” grade classification.
16. Mr. McHenry also contended that, because Mr. Lamb has not been trained or certified by the State of Indiana as a Level II Assessor, he therefore is not qualified to testify as to the grade classification of the subject structure.
17. Presenting rebuttal argument, Mr. Paul contended that the parking garage area in the purported comparable properties is a small percentage of the overall building structure. Mr. Paul observed that a similar analysis of the costs associated with the granite and/or marble exterior of the Market Tower and the One Indiana Square buildings was not done by the Marion County Property Tax Assessment Board of Appeals. Mr. Paul indicated that the interior features specifically mentioned by Mr. McHenry are insufficient to support the “A” grade; the Petitioner acknowledges that the structure of the building is an “A” grade.

**Issue 2 - Whether economic obsolescence is warranted for the subject building.**

18. Subsequent to the hearing, on March 10, 2001, the parties submitted a stipulation agreement indicating “Economic Obsolescence in the amount of 15% should be applied to the assessment of the entire building.” (Board’s Exhibit C, Stipulation Agreement).

**Issue 3 - Whether the assessment is in accordance with the Indiana Constitution, the Indiana Property Tax Assessment Statutes, and the State’s Assessment Regulation.**

19. The constitutionality of the assessment issue was not separately addressed but rather incorporated into the Petitioner’s Grade and Obsolescence arguments.

## Conclusions of Law

1. The Petitioner is 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. 50 IAC 17-5-3. See also the Forms 130 and 131 petitions authorized under Ind. Code §§ 6-1.1-15-1, -2.1, and -4. 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 130/131 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. 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, however, the State 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, such discretion will not be exercised and the Petitioner is limited to the issues raised on the Form 131 petition filed with the State.
  
2. The State 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's decision.

### **B. Burden**

7. Ind. Code § 6-1.1-15-3 requires the State to review the actions of the PTABOA, but does not require the State to review the initial assessment or undertake reassessment of the property. The State 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 is entitled to presume that its actions are correct. See 50 IAC 17-6-3. "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.
10. Taxpayers are expected to make factual presentations to the State 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 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. One manner for the taxpayer to meet its burden in the State's administrative proceedings is to: (1) identify properties that are similarly situated to the contested property, and (2) establish disparate treatment between the contested property and other similarly situated properties. *Zakutansky v. State Board of Tax Commissioners*, 691 N.E. 2d 1365, 1370 (Ind. Tax 1998). 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 is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State 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’s final determination merely because 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'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.

**Issue 1 - Whether the grade factor assigned to the subject building is excessive.**

18. The PTABOA determined that the building should be assessed with a grade of "A". The Petitioner contended the building should receive a grade of "A-2".
19. Grade means the classification of an improvement based on certain construction specifications and quality of materials and workmanship. 50 IAC 2.2-1-30.
20. Grade is used in the cost approach to account for variations from the norm or "C" grade. The quality and design of a building are the most significant variables in establishing grade. 50 IAC 2.2-10-3.
21. The determination of the proper grade requires assessors to make a variety of subjective judgments regarding variations in the quality of materials and workmanship and the quality of style and design. *Mahan v. State Board of Tax Commissioners*, 622 N.E. 2d 1058, 1064 (Ind. Tax 1993). For assessing officials and taxpayers alike, however, the Manual provides indicators for establishing grade. The text of the Manual (see 50 IAC 2.2-10-3), models, and graded photographs (50 IAC 2.2-11-4) assist assessors in the selection of the proper grade factor.
22. The characteristics of a "A" grade are described in 50 IAC 2.2-10-3(a)(1) which

states:

“A” grade buildings have an outstanding architectural style and design and are constructed with the finest quality materials and workmanship. These buildings have a superior quality interior finish with extensive built-in features, high grade lighting and plumbing fixtures, and a deluxe heating system and air conditioning system.

23. “The pricing schedules contained in 50 IAC 2.2-11-6 reflect the ‘C’ grade standards of quality and design unless otherwise stated...’A’ grade indicates a multiplier of one hundred sixty percent (160%).” 50 IAC 2.2-10-3(b).
24. Because the classification of an improvement may fall between major grade classifications, a method of interpolation is contained in the regulation. This method is described in 50 IAC 2.2-10-3(c)(1), which states:

“Plus or minus two (+/- 2) indicates that the grade falls halfway between the assigned grade classification and the grade immediately above or below it. For example, a grade of “C+2” indicates that the quality and design grade classification is estimated to fall halfway between “C” and “B” or average to good construction. The applicable percent is one hundred ten percent (110%).”
25. An “A-2” grade indicates a multiplier of one hundred forty percent. 50 IAC 2.2-11-6, Schedule F (GC Quality Grade – Design Factor).
26. To prevail in its appeal, the Petitioner must identify the model used to assess the improvement and demonstrate that features contained in the model vary from those in the property under appeal. The Petitioner must also demonstrate that the current grade does not already account for lower construction costs due to these features. *Miller Structures, Inc. v. State Board of Tax Commissioners*, 748 N.E. 2d 943, 953 (Ind. Tax 2001). Accordingly, the Petitioner must show how the subject deviates from the model, and quantify how the alleged deviations affect the subject’s assessment.

27. There are two methods to adjust an improvement's assessment for deviations from the model. The first is to adjust the grade of the subject. "Where possible, this type of an adjustment should be avoided because it requires an assessing official's subjective judgment." *Clark v. State Board of Tax Commissioners*, 742 N.E. 2d 46, 49 (Ind. Tax 2001)(*Clark II*). See also *Whitley*, 704 N.E. 2d 1113.
28. "Under some circumstances, an improvement's deviation from the model used to assess it may be accounted for via a grade adjustment." However, the evidence presented must explain how and to what extent the subject deviates from the model, why those deviations deserve an adjustment, and why a subjective (as opposed to objective) adjustment is appropriate. *Quality Farm and Fleet, Inc. v. State Board of Tax Commissioners*, 747 N.E. 2d 88, 94 (Ind. Tax 2001).
29. The second, and preferred, method "is to use separate schedules that show the cost of certain components and features present in the model. This method allows an assessing official to make an objective adjustment to the improvement's base rate." *Clark II*, 742 N.E. 2d at 49. See also *Whitley*, 704 N.E. 2d 1113.
30. The Petitioner offered no comparison of the cost of components in the model with the costs of features present in the building under appeal, as described in the preferred method.
31. Instead, UPA's determination of the appropriate grade factor for the subject property relied heavily on an interior finish weighted grade calculation (Petitioner's Exhibit 1, page 7).
32. In this analysis, the Petitioner assigned grades on a floor by floor basis. The Petitioner then multiplied the grade factor percentage by the percentage of the total square footage of the building contained on that floor. For example, the first floor was determined by the Petitioner to be of "A" grade quality materials and

workmanship. The Petitioner further determined that the first floor represented 4.84% of the total floor space in the building. The Petitioner multiplied 4.84% by 160% (the grade multiplier for “A” properties) and concluded the weighted grade of the first floor is 7.745%. A similar procedure was followed for each floor. The various weighted grade percentages were then totaled to determine a weighted interior finish grade factor for the structure, 121.223%.

33. The Petitioner concluded that the exterior of the building was best described as “A” grade. (Petitioner’s Exhibit 1, page 8).
34. The Petitioner next determined that interior finish represented 60% and the exterior structure of the building represented 40% of the total base square foot rate of the building. The Petitioner determined these percentages by adding cost elements of interior components, as contained in 50 IAC 2.2-11-6, Schedule C (GC Base Price Components and Adjustments), and comparing this total to the base square foot rate. (Petitioner’s Exhibit 1, pages 4 - 5).<sup>1</sup>
35. As the final steps in its calculation, the Petitioner multiplied the purported weighted interior finish grade factor of 121.223% by 60% (the claimed percentage of the total base rate represented by interior features) and 160% (“A” grade multiplier of the exterior) by 40% (the claimed percentage of the total base rate represented by the exterior). The two resulting totals were added for a rounded overall grade factor of 140%, or “A-2”.
36. The Petitioner’s weighted grade calculation is flawed and does not constitute probative evidence of error.
37. The heart of the Petitioner’s argument is its classification of grade to the individual floors and the exterior of the building. Such classifications, however, are merely conclusory opinions.

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<sup>1</sup> Because the conclusion reached concerning this issue makes an analysis of this calculation moot, the State makes no findings concerning the validity of this calculation.

38. For instance, concerning the exterior, the Petitioner contended, "...that even assuming that the exterior building structure is an "A" grade structure..." (Petitioner's Exhibit 1, page 8). No further explanation is offered to explain why the State should assume that the exterior is an "A" rather than some other grade.

39. Similar flaws exist with the Petitioner's analysis of the interior. Again using the first floor as an example, the Petitioner described the area:

"Main Lobby: Painted gypsum board coffered and cathedral ceilings with 4 pendant lights, inset can lighting and wood cove fluorescent [sic] lighting; inlaid granite flooring surround large area rugs (personal property) on concrete (approx. 2,000 SF of exposed concrete); granite wainscoting to four feet with stained wood paneling to twenty feet; brass elevator doors."

The Petitioner offered a similar analysis for the first floor tenant lobby area and tenant office area. (Petitioner's Exhibit 1, tab 2; the Petitioner also included six photographs, with no captions, of first floor areas).

40. However, this description does nothing to explain how and to what extent the subject deviates from the model, why those deviations deserve an adjustment, and why a subjective (as opposed to objective) adjustment is appropriate. *Quality Farm and Fleet, Inc. v. State Board of Tax Commissioners*, 747 N.E. 2d 88 (Ind. Tax 2001).

41. In the absence of such explanation, the Petitioner's determinations of grade are merely conclusory statements. *CDI, Inc. v. State Board of Tax Commissioners*, 725 N.E. 2d 1015, 1019 (Ind. Tax 2000). Similarly, without sufficient explanation, the photographs do not develop adequately a case for the Petitioner and remain only conclusory statements. *Bernacchi v. State Board of Tax Commissioners*, 727 N.E. 2d 1133, 1136 (Ind. Tax 2000).

42. Minimum testimony was given as explanation of what the photographs were purporting to show as deviations from the model or how the deviations justify a change in grade. A few isolated selective photographs do not allow the Board to conclude that the suggested floor grade, exterior grade or total structure grade are justified.
43. The Petitioner further argued that the application of the Base Price Adjustment to the subject building resulted in an excessive assessment. The Petitioner contended: "It should also be noted that prior to application of the grade factor, the assessment reflects a framing adjustment, wall height adjustments, and a base price adjustment. These adjustments increase the base square foot rate for the extra structural components within the Building. These cost additives should not be double counted by increasing the grade factor for these same components when establishing the overall grade factor." (Petitioner's Exhibit 1, page 8).
44. The Schedule B Base Price Adjustment (BPA) "is used to adjust the total base unit rate obtained from Schedule A [commercial and industrial cost schedules] for story height variations. The adjustment is required to account for the added construction costs of supports and material handling in multiple story construction. The BPA factor is given as a percentage. Select the proper factor for the corresponding story height and apply it to the total base unit rate. When calculating the actual story height, the basement is not counted as a story, but the basement base rate is included in the total unit rate. The table provided [50 IAC 2.2-11-6, Schedule B] accommodates buildings up to thirty-four (34) stories. Add one-half of one percent (1/2%) for each floor over thirty-four stories." 50 IAC 10-6.1(b).
45. As discussed, the quality and design of a building are the most significant variables in establishing grade. 50 IAC 2.2-10-3. The BPA, however, "is required to account for the added construction costs of supports and material handling in multiple story construction." 50 IAC 10-6.1(b). The Petitioner is therefore attempting to compare two completely diverse concepts: quality and

design in one instance, and added costs of supports and material handling in the other.

46. Neither the descriptive material in 50 IAC 10-6.1(b) nor the table contained in 50 IAC 2.2-11-6, Schedule B, provide any instructions to adjust the grade depending upon the BPA of the building. Clearly, the BPA of the structure is irrelevant when determining the grade to be used in pricing the building.
47. This concept is reinforced by reviewing the format of the property record card itself (50 IAC 2.2-10-6.1(h)). Again, the BPA and grade are independent items on the property record card, and neither affects the value of the other.
48. Significantly, the Petitioner failed to cite any authority for its contention that grade is affected by the BPA.
49. The same flaws exist with the Petitioner's contentions concerning framing adjustments (50 IAC 2.2-10-6.1(9)) and wall height adjustments (50 IAC 2.2-10-6.1(a)(6)), neither of which is determined by the quality of material and workmanship.
50. The Petitioner failed to show that there is a correlation between grade and BPA, framing adjustments, or wall height adjustments. The State therefore does not find this argument persuasive.
51. In further support of its position, the Petitioner identified properties that it claimed were similarly situated to the property under appeal, offering into evidence photographs of six other office buildings. (Petitioner's Exhibit 1, tab 4). However, as discussed, without further explanation the photographs are only conclusory statements. *Bernacchi*, 727 N.E. 2d at 1136.
52. The Petitioner also provided a side-by-side comparison of certain features of three of the properties, notably the elevator lobbies, common restrooms,

corridors, elevator cabs, and main lobbies. (Petitioner's Exhibit 1, tab 5). The Petitioner contended that this comparison established disparate treatment between similarly situated properties.

53. However, the areas of comparison presented by the Petitioner actually represent only a small portion of the overall structure. Further, the Petitioner failed to explain the manner in which the perceived differences equate to a reduction in grade from "A" to "A-2".
54. Again, the Petitioner's description does nothing to explain how and to what extent the subject deviates from the model, why those deviations deserve an adjustment, and why a subjective (as opposed to objective) adjustment is appropriate. *Quality Farm and Fleet, Inc. v. State Board of Tax Commissioners*, 747 N.E. 2d 88 (Ind. Tax 2001).
55. Once again, the State does not find this evidence persuasive of error.
56. For all the reasons above, the Petitioner failed to meet its burden in this appeal. Accordingly, no change is made to the assessment as a result of this issue.

**Issue 2 - Whether economic obsolescence is warranted for the subject building.**

57. The parties submitted a Stipulation Agreement, which states, "Economic Obsolescence in the amount of 15% should be applied to the assessment of the entire building." (Board's Exhibit C, Stipulation Agreement).
58. The State accepts the parties' stipulation and agreement identified immediately above. In doing so, the State does not decide the propriety of this agreement, either explicitly or implicitly.
59. In consideration of the Stipulation Agreement between the parties, a change is made to the assessment as a result of the obsolescence issue.

**Issue 3 - Whether the assessment is in accordance  
with the Indiana Constitution, the Indiana Property Tax  
Assessment Statutes, and the State's Assessment Regulation.**

60. The issue of the Constitutionality of the assessment was addressed as part of the other issues. Therefore, there is no change to the assessment specifically associated with this issue.

**Summary of Final Determination**

**Determination of ISSUE 1: Whether the grade  
factor assigned to the subject building is excessive.**

61. The Petitioner failed to meet its burden in this appeal. Accordingly, no change is made to the assessment as a result of this issue.

**Determination of ISSUE 2: Whether economic  
obsolescence is warranted for the subject building.**

62. The parties agreed that 15% economic obsolescence should be applied to the assessment of the entire building. Accordingly, there is a change in the assessment as a result of this issue.

**Determination of ISSUE 3: Whether the assessment is in  
accordance with the Indiana Constitution, the Indiana Property  
Tax Assessment Statutes, and the State's Assessment Regulation.**

63. The issue of the Constitutionality of the assessment was addressed as part of the other issues. Therefore, there is no change to the assessment specifically associated with this issue.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this \_\_\_\_ day of \_\_\_\_\_, 2002.

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Chairman, Indiana Board of Tax Review