



APPENDIX - CHAPTER 6.4 - RELEVANT COURT CASES

INTRODUCTION

This chapter is intended to assist examiners in determining whether certain assets constitute § 1245 or § 1250 property. In addition to the legal framework presented in Chapter 2, the court cases listed below provide further guidance. Although the issue in many of the cited cases below relates to ITC, these cases remain important in determining whether property constitutes § 1245 property for purposes of ACRS and constitutes tangible personal property for purposes of MACRS. **Hospital Corporation of America and Subsidiaries v. Commissioner**, 109 T.C. 21, 54-55 (1997), **acq. on this issue and nonacq. on other issues**, 1999-2 C.B. xvi.

Unfortunately, there are no bright-line tests for distinguishing § 1245 property from § 1250 property. All of the cases are factually intensive and quite often the opinions of the courts conflict. Therefore, the examiner's ultimate determination generally cannot be based merely upon reading one case. In addition to reading all the cases on point, the Service's position must be reviewed and followed; as well, the examiner must also consider whether the Service has acquiesced to a particular position or case.

ARRANGEMENT OF INFORMATION

This chapter contains three attachments to assist examiners in locating pertinent cases that address specific assets:

[Case Citations for the Relevant Court Cases](#);

[Table by Case Name](#) (Asset Descriptions by §§ 1245/1250 determinations); and

[Table by CSI Master Format Division](#) (Case Name & Asset Description by §§ 1245/1250 determinations)

CASE CITATIONS

- 1. AC Monk**
A.C. Monk & Co. v. United States, No. 78-126-CIV-4, 1981 U.S. Dist. LEXIS 17764 (E.D.N.C. Mar. 30, 1981), aff'd in part, rev'd in part, vacated and rem'd, 686 F.2d 1058 (4th Cir. 1982), on remand, 577 F. Supp. 4 (E.D.N.C. 1983).
- 2. Albertson's**
Albertson's v. Commissioner, 94-1 U.S. Tax Cas. (CCH) P50,016; 73 A.F.T.R.2nd (RIA) 558 (9th Cir. 1993); rev'g. 95 T.C. 415 (1990).
- 3. Bod-Nol**
Boddie-Noelle Enters. v. United States, 96-2 USTC ¶ 50,627 (Fed. Cl. 1996), aff'd without published opinion, 132 F. 3d 54 (Fed. Cir. 1997).
- 4. Centr Citrus**
Central Citrus Co. v. Commissioner, 58 T.C. 365 (1972).
- 5. Circle K**
Circle K Corp. v. Commissioner, T.C. Memo. 1982-298.
- 6. Cons Freight**
Consolidated Freightways, Inc. v. Commissioner, 74 T. C. 768 (1980), aff'd in part and rev'd in part, 708 F.2d 1385 (9th Cir. 1983).
Consolidated Freightways, Inc. v. United States, 79-2 USTC ¶ 9440 (Ct. Cl. 1979).
Consolidated Freightways, Inc. v. United States, 620 F.2d 862 (Ct. Cl. 1980).
- 7. Dixie Man**
Dixie Manor, Inc. v. United States, 79-2 USTC ¶ 9469 (W.D. Ky. 1979), aff'd, 81-1 USTC 9332 (6th Cir. 1981).
- 8. Duaine**
Duaine v. Commissioner, T.C. Memo. 1985-39.
- 9. Grinalds**
Grinalds v. Commissioner, T.C. Memo. 1993-66.

10. **HCA**
Hospital Corp. of Am. & Subs. v. Commissioner, 109 T. C. 21 (1997), acq. in part and nonacq. in part, 1999-2 C.B. xvi.
11. **III Cereal**
Illinois Cereal Mills, Inc. v. Commissioner, T.C. Memo. 1983-469, aff'd, 789 F.2d 1234 (7th Cir. 1986), cert. denied, 479 U.S. 995 (1986).
12. **King Radio**
King Radio Corp. v. United States, 486 F.2d 1091 (10th Cir. 1973), aff'g D.C. No. KC-3320).
13. **La Petite**
La Petite Academy v. United States, 95-1 USTC ¶ 50,193 (W.D. Mo. 1995), aff'd in unpublished opinion, 72 F.3d 133 (8th Cir. 1995).
14. **LL Bean**
L.L. Bean, Inc. v. Commissioner, T.C. Memo. 1997-175, aff'd, 145 F.3d 53 (1st Cir. 1998).
15. **Mallinckrodt**
Mallinckrodt, Inc. v. Commissioner, T.C. Memo. 1984-532, aff'd, 778 F.2d 402 (8th Cir. 1985).
16. **McManus**
McManus v. United States, 700 F. Supp. 994 (W.D. Wis. 1987), aff'd, 863 F.2d 491 (7th Cir. 1988).
17. **Metro**
Metro Nat'l Corp. v. Commissioner, T.C. Memo. 1987-38.
18. **Minot Fed**
Minot Fed. Sav. & Loan Ass'n v. United States, 313 F. Supp. 294 (D.N.D. 1970), aff'd, 435 F.2d 1368 (8th Cir. 1970).
19. **Morrison**
Morrison, Inc. v. Commissioner, T.C. Memo. 1986-129, aff'd, 891 F.2d 857 (11th Cir. 1990).
20. **Munford**
Munford, Inc. v. Commissioner, 87 T.C. 463 (1986), aff'd, 849 F.2d 1398 (11th Cir. 1988).
21. **Piggly Wiggly**
Piggly Wiggly Southern, Inc. v. Commissioner, 84 T.C. 739 (1985), aff'd, 803 F.2d 1572 (11th Cir. 1986), nonacq., 1988-2 C.B. 1.
22. **Publix**
Publix Supermarkets, Inc. v. United States, 92-1 USTC ¶ 50,240 (Cl. Ct. 1992).
23. **Schrum**
Schrum v. Commissioner, T.C. Memo. 1993-124, aff'd in part and vacated in part, rem'd, 33 F.3d 426 (4th Cir. 1994), on remand, T.C. Memo. 1995-103, aff'd in part and vacated in part without published opinion, 114 F.3d 1177 (4th Cir. 1997).
24. **Scott Paper**
Scott Paper Co. v. Commissioner, 74 T.C. 137 (1980).
25. **Shoney's**
Shoney's South, Inc. v. Commissioner, T.C. Memo. 1984-413, action on dec., 1986-048 (September 19, 1986).
26. **TI**
Texas Instruments Inc. v. Commissioner, T.C. Memo. 1992-306.
27. **Walgreen**
Walgreen Co. & Subs. v. Commissioner, 103 T.C. 582 (1994), rev'd, rem'd, 68 F.3d 1006 (7th Cir. 1995), supplemental op., T.C. Memo. 1996-374.
28. **Westroads**
Westroads, Inc. v. Commissioner, 69 T.C. 682 (1978), acq., 1979-2 C.B. 2.
29. **Whiteco**
Whiteco Industries, Inc. v. Commissioner, 65 T.C. 664 (1975), acq., 1980-2 C.B. 2.

TABLE BY CASE NAME

Case Name	Master Format Division	Asset Description	1245 Personal Property	1250 Real Property
AC Monk	15700	Louvered Wall to Boiler	X	
	03000	Truck Apron	X	
	10800	Lavatory Furnishings		X
	15300	Fire Hose Stations		X
	13120	Special Rooms	X	
	13120	Storage Sheds	X	
	16400	Elec. Dist. to lights & machines		X
	03000	Concrete RR dock		X
	13030	Green storage room		X
Albertson's	15700	HVAC system		X
	05100	Raised roof		X
Bod-Nol	09500	Suspended Ceilings		X
	06170	Ext. Mansard-Marlite roof panels		X
	16400	Electrical to equipment		X
	15400	Plumbing to equipment		X
	15700	Kitchen HVAC		X
	08830	Decorative Mirror		X
	08582	Carousel drive-up window unit		X
Centr Citrus	15700	Blowers	X	
	15700	Coolers	X	
	16400	Elec. dead front panel		X
	16300	Elec. Transformer to facilities		X
	16400	Elec. Gutter plus ends & cutting	X	
	16400	Elec. Dist: adapters/relays/fuse	X	
	16140	30 amp. Switch	X	
	16300	Elec. Transformer for sweet rm	X	
	16140	Elec. Outlets	X	X
	16510	Fluorescent fixtures	X	X
	16510	Spotlight and flood lamps	X	X
	16510	Moisture-proof lamps	X	
	16300	Elec. Transformer for damper	X	
	16510	Ballast lights	X	
Circle K	13030	Cold storage rm.		X
	15700	Air conditioning units (roof)		X
Cons Freight	03000	Raised concrete loading dock		X
	08330	Overhead doors		X
	16510	Light fixtures - mercury vapor		X
	02825	Dock fence	X	
Dixie Man	15700	Air conditioning/Heating (roof)		X
	09250	Rm partition (drywall/wood stud)		X
Duaine	03100	Concrete slab behind counter		X
	09300	Floor tile		X
	09300	Wall tile		X
	15100	Water lines to cooking table,etc	X	
	15100	Gas lines to cooking elements	X	
	15100	Connecting fixtures to appliance	X	
	15100	Copper drain lines from refrig.	X	
	16510	Ornamental light fixtures		X
	16140	Elec. Outlets to equip.	X	

TABLE BY CASE NAME

Grinalds	15700	Air conditioning units		X
	09250	Partitions (cubical type)		X
	09250	Walls (interior)		X
	10800	Walls (restroom)		X
	15400	Plumbing – restroom		X
	16200	Elec. Conduit & Recep. – Restrm		X
HCA	16300	Primary & secondary elec. dist.	X	X
	16400	Branch elec. dist.	X	X
	16200	Branch elec. – TV equip.	X	
	16700	Telephone wiring, jacks	X	
	16200	Elec. Wiring – inter-com equip.	X	
	09680	Carpeting	X	
	09720	Vinyl wall covering	X	
	09600	Vinyl wall covering	X	
	15400	Kitchen water pipe, grease trap	X	
	15400	Plumbing for x-ray	X	
	15850	Kitchen hood & exhaust sys.	X	
	05720	Patient corridor handrails	X	
	16510	Over-bed recessed lights		X
	10650	Accordion doors/partitions	X	
	10800	Bathroom acces., plastic mirrors		X
	09510	Acoustical ceiling tile		X
	15510	Steam boilers & acces.		X
Ill Cereal	16400	Elec. Distribution system (95%)	X	
King Radio	10630	Partitions (ceiling height)	X	
	10630	Glazed partitions	X	
	10630	Movable partition sys.	X	
LL Bean	13140	Storage rack sys. (supp. roof)		X
	03000	Super-flat concrete slab		X
	13140	Roofing & wall panels		X
	16400	Electrical system		X
	15300	Sprinkler system		X
	15764	Heating/ventilation system		X
	13138	Mezzanine system		X
La Petite	09250	Wall panels-porc.enamel/gyp.bd)		X
	06170	Mansard roof		X
	02825	Playground fence		X
	16520	Exterior façade lighting sys.		X
	15300	Fire protection sys.		X
	15300	Heat & smoke detectors		X
	16530	Emergency lights		X
	10426	Illum. Exterior signs		X
	10800	Child’s restrm./handicap cabinet		X
	11442	Grease trap to counter		X
	16200	Elec. Service to counter		X
	02825	Dumpster encl: fence & concrete		X
	15780	Thermal recov. Sys.–water heater		X
	08300	Doors(kitchen, by-pass, Dutch)		X
Mallinckrodt	09250	Partitions (gyp. drywall)		X
McManus	13120	Ten unit hangar bldg.		X
	08344	Hangar doors		X
	08970	Glass/door storefront partitions	X	
	10800	Toilet partitions		X

TABLE BY CASE NAME

	09510	False ceilings & grids		X
	16510	Lay-in lighting facilities		X
	16520	Exterior security lighting	X	
	16510	Grow lights	X	
	16510	Accent decor lighting (exterior)	X	
	06400	Cabinets (plastics & hardware)	X	
	02810	Sprinkler heads		X
Minot Fed	10630	Pre-manuf. Wall partitions	X	
	08100	Door units (in partitions)	X	
Morrison	16530	Emergency lighting	X	
	16440	Kitchen panel boards	X	
	15400	Kitchen hand sinks		X
	15400	Kitchen water piping	X	
	08380	Eliason doors	X	
	10800	Restroom accessories		X
	16500	Décor window treatment	X	
	06440	Lattice millwork	X	
	06400	Vanity cabinets & counters		X
	09250	Customer line screen	X	
	03000	Serving line concrete curb		X
	15780	Kitchen heat recovery unit	X	
	03000	Floors:cooler/freezer/garbage rm		X
	13030	Garbage room		X
	09300	Kit. sanitary wall & floor tile		X
	15850	Kitchen air makeup unit	X	
	15400	Kitchen drainage	X	
	15412	Electric water coolers		X
	16510	Chandeliers, décor wall lights	X	
	15400	Kitchen hot water heater	X	
	16400	Primary elec. Dist. sys.	X	X
Munford	03000	Truck loading platform		X
	03000	Rail loading platform		X
	13030	Refrig. area (struct. elements)		X
Piggly Wiggly	15700	HVAC units	X	
Publix	15700	HVAC system		X
Schrum	13122	Car wash facility		X
	15400	Plumbing system	X	
	16200	Electrical system	X	
Scott Paper	16400	Primary elec. Dist. Sys.	X	X
	16400	Secondary (general) elec.		X
Shoney's	16510	Chandeliers	X	
	16510	Hanging lanterns	X	
TI	03000	Waste treatment facilities	X	
	09250	Drywall partitions		X
	13122	Misc. structures & related equip		X
	03000	Concrete floor & supp. columns	X	
	03000	Concrete ground fl. & wood deck		X
	08970	Window walls		X
	09500	Ceilings		X
	15700	Air conditioning for tele. room	X	
	15400	Plumbing servicing equip.	X	
	08100	Emergency doors		X
	15300	Fire protection sys. – duct work	X	

TABLE BY CASE NAME

	15300	Fire protection system		X
	02825	Security fencing	X	
	02930	Interior landscaping	X	
	02930	Exterior landscaping		X
	16360	Cat. 1 – high voltage main		X
	16400	Cat. 2 – breaker/feeder sys		X
	16400	Cat. 3 – spare brkers, transf.		X
	16400	Cat. 4 – carries load to equip	X	
Walgreen	09250	Partitions (drywall, glass)		X
	10800	Restroom partition(metal)		X
	06400	Millwork, metal work, trim		X
	08100	Doors		X
	09500	Ceilings (drywall, acoustical)		X
	09680	Floor coverings (carpet, tile)	X	
	16500	Elec. light fixtures, wire, etc.		X
	10536	Décor: canopy, signs, concrete	X	
Westroads	16220	Elec. power generating equip.	X	
Whiteco	10426	Advertising signs (billboards)	X	

TABLE OF CASES BY CSI

CSI Master Format Division			Asset Description	Property Type:	
Case Name				1245 Personal Property	1250 Real Property
Division 02 – Sitework					
Metro	02810	Sprinkler heads			X
TI	02825	Security fencing	X		
La Petite	02825	Dumpster Encl. (fence & concrete)			X
La Petite	02825	Playground fence			X
Cons Freight	02825	Dock fence	X		
TI	02930	Interior landscaping	X		
TI	02930	Exterior landscaping			X
Division 03 – Concrete					
TI	03000	Concrete floor & supp. columns	X		
TI	03000	Concrete ground fl. & wood deck			X
AC Monk	03000	Concrete RR dock			X
AC Monk	03000	Truck apron	X		
Morrison	03000	Floors: cooler/freezer/garbage rm			X
Cons Freight	03000	Raised concrete loading dock			X
Morrison	03000	Serving line concrete curb			X
LL Bean	03000	Super-flat concrete slab			X
Munford	03000	Truck loading platform			X
TI	03000	Waste treatment facilities	X		
Munford	03000	Rail loading platform			X
Duaine	03100	Concrete slab behind counter			X
Division 04 – Masonry					
Division 05 – Metals					
AC Monk	05100	Raised roof			X
McManus	05300	Metal partitions			X
HCA	05720	Patient corridor handrails	X		
Division 06 – Wood & Plastics					
Bod-Nol	06170	Exterior Mansard-Marlite roof panels			X
La Petite	06170	Mansard Roof			X
Metro	06400	Cabinets (plastics & hardware)	X		
Walgreen	06400	Millwork, metal work, trim			X
Morrison	06400	Vanity cabinets & counters			X
Morrison	06440	Lattice millwork	X		
Division 08 – Doors & Windows					
TI	08100	Emergency Doors			x
Walgreen	08100	Doors			X
Centr Citrus	08100	Sweet room doors	X		
Minot Fed	08100	Door units (in partitions)	X		
La Petite	08300	Doors (kitchen, bypass and Dutch)			X
Cons Freight	08330	Overhead doors			X
McManus	08344	Hangar doors			X
Morrison	08380	Eliason doors	X		
Bod-Nol	08582	Carousel drive-up window unit			X

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Bod-Nol	08830	Decorative mirror		X
TI	08970	Window walls		X
Metro	08970	Glass/door storefront partitions	X	X
Division 09 – Finishes				
La Petite	09250	Wall panels (porc. enameled/gyp.bd)		X
Morrison	09250	Customer line screen	X	
TI	09250	Drywall partitions		X
Mallinckrodt	09250	Partitions (gyp. drywall)		X
Metro	09250	Partitions (gyp. drywall)	X	
Walgreen	09250	Partitions (drywall, glass)		X
Grinalds	09250	Partitions (cubical type)		X
Dixie Man	09250	Rm. Partitions (drywall/wood stud)		X
Grinalds	09250	Walls (interior)		X
Duaine	09300	Floor Tile		X
Morrison	09300	Kitchen sanitary wall & floor tile		X
Duaine	09300	Wall Tile		X
TI	09500	Ceilings		X
Walgreen	09500	Ceilings (drywall & acoustical)		X
Bod-Nol	09500	Suspended Ceilings		X
HCA	09510	Acoustical ceiling tile		X
Metro	09510	False ceilings and grids		X
Walgreen	09680	Floor coverings (carpet, tile)	X	
HCA	09680	Carpeting	X	
HCA	09720	Vinyl Wall Covering	X	
Division 10 – Specialties				
Whiteco	10426	Advertising signs (billboards)	X	
La Petite	10426	Illum. Exterior Signs		X
Walgreen	10536	Décor: canopy, signs, concrete	X	
King Radio	10630	Glazed partitions	X	
King Radio	10630	Movable Partition System	X	
King Radio	10630	Partitions (ceiling height)	X	
Minot Fed	10630	Pre-Manufactured Wall Partitions	X	
HCA	10650	Accordion doors/partitions	X	
AC Monk	10800	Lavatory Furnishings		X
HCA	10800	Bathroom acces., plastic mirrors		X
Walgreen	10800	Restroom partition (metal)		X
Morrison	10800	Restroom accessories		X
Metro	10800	Toilet partitions		X
La Petite	10800	Child's Restroom/Handicap Cabinet		X
Grinalds	10800	Walls (restroom)		X
Division 11 – Equipment				
La Petite	11442	Grease trap to counter		X
Division 12 – Furnishings				
Division 13 – Special Construction				
Morrison	13030	Garbage room		X
AC Monk	13030	Green storage room		X
Circle K	13030	Cold storage room		X
Munford	13030	Refrig. Area (structural elements)		X
AC Monk	13120	Special rooms	X	
AC Monk	13120	Storage sheds	X	

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McManus	13120	Ten unit hangar bldg.		X
TI	13122	Misc. structures & related equip.		X
Schrum	13122	Car wash facility		X
LL Bean	13138	Mezzanine system		X
LL Bean	13140	Storage rack system (supp. roof)		X
LL Bean	13140	Roofing and wall panels		X
Division 15 – Mechanical				
Plumbing – Pipes and Fittings				
Duaine	15100	Connecting fixtures to appliance	X	
Duaine	15100	Copper drain lines from refrigerator	X	
Duaine	15100	Gas lines from refrigerator	X	
Duaine	15100	Water lines to cooking table, etc.	X	
Fire Protection Systems				
AC Monk	15300	Fire hose stations		X
La Petite	15300	Heat and smoke detectors		X
TI	15300	Fire protection system		X
TI	15300	Fire protection system – duct work	X	
LL Bean	15300	Sprinkler system		X
La Petite	15300	Fire protection system		X
Plumbing – Fixtures				
TI	15400	Plumbing servicing equip.	X	
Morrison	15400	Kitchen drainage	X	
Morrison	15400	Kitchen hand sinks		X
Morrison	15400	Kitchen hot water heater	X	
Morrison	15400	Kitchen water piping	X	
HCA	15400	Kitchen water pipe, grease trap	X	
Bod-Nol	15400	Plumbing to equip.		X
HCA	15400	Plumbing to x-ray	X	
Grinalds	15400	Plumbing – restroom		X
Schrum	15400	Plumbing system	X	
Morrison	15412	Electric water coolers		X
HVAC				
HCA	15510	Steam boilers & acces.		X
AC Monk	15700	Louvered wall to boiler	X	
TI	15700	Air conditioning for telephone room	X	
Dixie Man	15700	Air conditioning/heating (roof)		X
Centr Citrus	15700	Blowers	X	
Centr Citrus	15700	Coolers	X	
Grinalds	15700	Air conditioning units		X
Piggly Wiggly	15700	HVAC units	X	
Albertson's	15700	HVAC system		X
Publix	15700	HVAC system		X
Circle K	15700	Air conditioning units (roof)		X
Bod-Nol	15700	Kitchen HVAC		X
LL Bean	15764	Heating/ventilation system		X
Morrison	15780	Kitchen heat recovery unit	X	
La Petite	15780	Thermal recovery system – water heater		X
Morrison	15850	Kitchen air makeup unit	X	
HCA	15850	Kitchen hood & exhaust system	X	

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Division 16 – Electrical				
Wire, Conduit, J-boxes to End Use Fixture				
Centr Citrus	16140	30-amp. Switch	X	
Duaine	16140	Electrical outlets to equip.	X	
Centr Citrus	16140	Elec. Outlets	X	X
Grinalds	16200	Elec. Conduit & recep. – restroom		X
HCA	16200	Elec. Wiring – inter-com equip	X	
HCA	16200	Branch elec. – TV equip	X	
La Petite	16200	Electrical service to counter		X
Schrum	16200	Electrical system	X	
Generating Equipment				
Westroads	16220	Electrical power generating equip.	X	
Power Transmission				
Centr Citrus	16300	Elec. Transformer to facilities		X
Centr Citrus	16300	Elec. Transformer for dumpster	X	
Centr Citrus	16300	Elec. Transformer for Sweet rooms	X	
TI	16360	Category 1 – high voltage (main)		X
Service and Distribution				
HCA	16400	Primary & secondary elec. Distrib.	X	X
HCA	16400	Branch elec. dist. System	X	X
TI	16400	Category 2 – breaker/feeder system		X
TI	16400	Category 3 – spare breakers & transformers		X
TI	16400	Category 4 – carries load to equip.	X	
Scott Paper	16400	Primary electrical distribution system	X	X
Scott Paper	16400	Secondary (general) electrical services		X
Bod-Nol	16400	Electrical to equip.		X
Ill Cereal	16400	Electrical distribution system (95%)	X	
AC Monk	16400	Elec. dist. to lights & machines		X
LL Bean	16400	Electrical system		X
Centr Citrus	16400	Elec. – dead front panel		X
Centr Citrus	16400	Elec. dist: adaptors, relays, fuses, switches	X	
Centr Citrus	16400	Elec. gutter plus ends & cuttings	X	
Morrison	16400	Primary electrical dist. System	X	X
Morrison	16400	Kitchen panel boards	X	
Lighting				
Morrison	16500	Décor window treatment	X	
Walgreen	16500	Elec. light fixtures, wire, etc.		X
Metro	16510	Accent decorative lighting (exterior)	X	
Centr Citrus	16510	Ballast lights	X	
Shoney's	16510	Chandeliers	X	
Morrison	16510	Chandeliers, décor wall lights	X	
Centr Citrus	16510	Fluorescent fixtures	X	X
Metro	16510	Grow lights	X	
Shoney's	16510	Hanging lanterns	X	
Metro	16510	Lay-in lighting		X
Cons Freight	16510	Light fixtures – mercury vapor		X
Centr Citrus	16510	Moisture-proof lamps	X	
Duaine	16510	Ornamental light fixtures		X
HCA	16510	Over-bed recessed lights		X
Centr Citrus	16510	Spotlight & flood lamp	X	X
La Petite	16520	Exterior façade lighting system		X

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Metro	16520	Exterior security lighting	X	
Morrison	16530	Emergency lighting	X	
La Petite	16530	Emergency lighting		X
Communications				
HCA	16700	Telephone wiring, conduit jacks, etc.	X	