REPRESENTATIVES FOR PETITIONER: David A. Suess, Brent A. Auberry, Benjamin A. Blair, Abraham M. Benson, Brigham E. Michaud, Faegre Drinker Biddle & Reath, LLP

REPRESENTATIVE FOR RESPONDENT: Ayn K. Engle, Attorney at Law

BEFORE THE INDIANA BOARD OF TAX REVIEW

TARGET CORPORATION,	)	Petition Nos.: 10-013-20-1-4-00206-21
	)	10-013-21-1-4-01130-22
Petitioner,	)	10-013-22-1-4-01131-22
	)	
v.	)	Parcel No.: 10-24-03-200-422.000-013
	)	
CLARK COUNTY ASSESSOR,	)	County: Clark
	)	
Respondent.	)	Assessment Years: 2020, 2021, 2022

September 10, 2024

FINAL DETERMINATION

The Indiana Board of Tax Review ("Board"), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Target Corporation ("Target") contested the 2020, 2021, and 2022 assessments of its big box retail store in Clarksville, Indiana. The parties offered competing valuation opinions from their respective appraisers—Laurence Allen for Target and David Hall for the Clark County Assessor.[1] After weighing the evidence, we find Allen's appraisal to be the most persuasive evidence of the subject property's true tax value and conclude it supports a reduction to the assessments at issue.

[1] Although appraiser Michael C. Lady also worked on and signed the appraisal offered by the Assessor, Hall was the only one who testified. For simplicity, we will refer to it as Hall's appraisal. *Tr. at 446; Ex. R-1 at 6.*

PROCEDURAL HISTORY

2. Target filed Form 130 notices contesting its 2020, 2021, and 2022 assessments on June 4, 2020, June 3, 2021, and June 10, 2022, respectively. The Clark County Assessor and the Clark County Property Tax Assessment Board of Appeals ("PTABOA") determined the following assessments[2]:

Year	Land	Improvements	Total
2020	$2,616,600	$3,280,700	$5,897,300
2021	$2,616,600	$3,296,700	$5,913,300
2022	$2,616,600	$3,540,000	$6,156,600

3. Target filed its Form 131 petition for 2020 on January 29, 2021, and it filed its Form 131 petitions for 2021 and 2022 on December 22, 2022. On May 16, 2023, the Board adopted the parties' Appeal Management Plan, in which they agreed to limit the scope of the hearing to the determination of the subject property's market value-in-use as of January 1, 2022, and stipulated to the use of a trending formula to determine the 2020 and 2021 assessments.[3]

4. Beginning on September 5, 2023, our designated Administrative Law Judge, Jacob Robinson ("ALJ"), held a four-day hearing on the petitions. Neither he nor the Board inspected the subject property. Appraisers Laurence Allen and David Hall testified under oath.

5. Target submitted the following exhibits:

Petitioner Ex. P-1: 2022 Appraisal Report prepared by Laurence Allen
Petitioner Ex. P-3: Indiana Costar data (pp. 1-13 only)
Petitioner Ex. P-4: Walmart correspondence

[2] On December 30, 2020, the PTABOA issued a Form 115 determination for the 2020 assessment. However, Target elected to appeal the 2021 and 2022 assessments directly to us after the maximum time for the PTABOA to act had passed. *See* Ind. Code § 6-1.1-15-1.2(k) (allowing taxpayers to appeal to the Board if the county board has not issued a determination within 180 days of the date the notice of appeal was filed).
[3] 2020 AV = 2022 AV (as finally determined) x 0.95; 2021 AV = 2022 AV (as finally determined) x 0.97.

Petitioner Ex. P-5:	Target store openings
Petitioner Ex. P-6:	Situs RERC study
Petitioner Ex. P-7:	1501 Blackiston Mill Road information
Petitioner Ex. P-8:	706 E. Lewis & Clark Parkway information
Petitioner Ex. P-11:	Hall Sales 1-5 summary of location data and adjustments
Petitioner Ex. P-22:	Marshall Valuation Service calculator method
Petitioner Ex. P-23:	2014 Integra appraisal report for 1025 Veterans Parkway
Petitioner Ex. P-24:	2016 Integra appraisal report for 11750 Commercial Drive
Petitioner Ex. P-25:	2016 Integra appraisal report for 6716 Oak Grove Road
Petitioner Ex. P-26:	2017 Integra appraisal report for 3015 W. 86th Street
Petitioner Ex. P-27:	Sale #5 (400 S. Zuni Street) data
Petitioner Ex. P-28:	2016 Integra appraisal report for 1600 E. 151st Street

6. The Assessor submitted the following exhibits:

Respondent Ex. R-1:	2022 Appraisal Report prepared by David Hall
Respondent Ex. R-2:	Addenda to 2022 appraisal report
Respondent Ex. R-18 (A)-(D):	Offering Memoranda
Respondent Ex. R-21:	Allen Sale #1 data
Respondent Ex. R-22 (A-B):	Allen Sale #2 data
Respondent Ex. R-23 (A-B):	Allen Sale #5 data
Respondent Ex. R-24 (A-C):	Allen Sale #4 data
Respondent Ex. R-25:	Allen Sale #6 K-Mart closing article
Respondent Ex. R-27:	Allen additional Sale #5
Respondent Ex. R-28:	Excerpts from Academy offering memorandum
Respondent Ex. R-29:	Excerpts from At Home offering memorandum
Respondent Ex. R-30:	Allen Rent #18 excerpts from offering memorandum
Respondent Ex. R-31:	Boulder Group Net Lease Big Box Report
Respondent Ex. R-32:	Situs RERC
Respondent Ex. R-40:	Allen additional Sale #6 CBRE
Respondent Ex. R-55:	2021 REAL PROPERTY ASSESSMENT MANUAL
Respondent Ex. R-66:	The Appraisal of Real Estate (15th Ed.) pp. 352-353, 355
Respondent Ex. R-67 (A)-(C):	Forbes article

7. The record also includes the following: (1) all pleadings, briefs, motions, and documents filed in these appeals; (2) all notices and orders issued by the Board or our ALJ; and (3) a transcript of the hearing[4].

[4] The transcript is bound in four volumes, but the pages are numbered consecutively from 1 to 1192. We will cite to the transcript, without reference to the volume, using the following format: *Tr. at* (page number).

FINDINGS OF FACT

A. THE SUBJECT PROPERTY

8. The subject property is located at 1025 Veterans Parkway, Clarksville, Indiana. It is currently owned and occupied by Target in fee simple, and consists of a single tenant, big box retail store and site improvements situated on a 10.06-acre platted lot in the Waterford Park North shopping center. The subject property is in the Veterans Parkway Corridor Zone, a retail corridor with large-scale commercial and retail development close to Interstate 65 and Interstate 265. The store faces Veterans Parkway, which provides it with good visibility and exposure. Veterans Parkway also provides indirect access to the subject property at a signalized intersection via a reciprocal easement/shared access agreement with Waterford Park North. There is also direct access to the subject property from Broadway Street and Clevidence Boulevard. *Tr. at 20-21, 26, 28-30, 32, 454, 457, 471, 473-474, 476; Ex. P-1 at 1, 14, 17-19; Ex. R-1 at 2, 5, 44-57, 71.*

9. The primary improvement is a one-story, 124,880 SF building that was built to Target's specifications and completed in 2005. It has a poured concrete foundation, steel framing, concrete block walls with brick façade and EIFS over tilt-up concrete walls, a flat roof of built-up composition with stone over steel deck and trusses, a building height of approximately 22 feet, and three truck docks with overhead doors and load levelers. The interior layout is generally an open retail sales area with offices, employee areas, restrooms, a shipping and receiving area, and a warehouse/storage area. Portions of the interior are also used as a CVS pharmacy and as a Starbucks, but the subject property is not encumbered by any lease agreements. Floor coverings include tile and carpet in the sales area, ceramic tile in the restrooms, and exposed concrete in the back room. The sales floor and office areas have painted sheetrock walls and suspended acoustic ceilings, while the warehouse area has unpainted sheetrock and exposed ceilings. The lighting throughout the building is primarily recessed fluorescent lighting fixtures. It has roof-mounted HVAC units, plumbing, electrical service, and a wet sprinkler system.

Although its interior was partially remodeled around 2019, there have been no major investments or renovations since it was built in 2005, and the roof and all but two of the HVAC units (installed between 2010 and 2013) are original to the building. *Tr. at 34-37, 218-219, 751; Ex. P-1 at 1, 18, 24-25, 27-39, 32-33; Ex. R-1 at 5, 57-59, 62-64, 70-71, 74-87, 91.*

10. Site improvements include about 215,000 SF of asphalt paving with approximately 625 parking spaces, curbing, concrete truck aprons and sidewalks, pole lighting, and grass/landscaping along the road frontages. There is an additional 19,150 SF of concrete paving for the loading area at the rear of the building. *Ex. P-1 at 33-34; Ex. P-1 at 18, 22-23; Ex. R-1 at 57, 72-73, 87-88.*

11. In 2022, the subject property was assessed for $6,156,600, an increase of about 4.11% over its 2021 assessment of $5,913,300. *Ex. P-1 at 41; Ex. R-1 at 103; Ex. R-2 at 20.*

B. EXPERT OPINIONS

1. Allen's Appraisal

12. Target offered an appraisal report from Laurence Allen. Allen has a Bachelor of Arts degree from Linfield College and an MBA from the University of Michigan. He is President and Chief Appraiser at Allen & Associates Appraisal Group, Inc., which he founded in 1991. Allen has been a real estate appraiser for over 40 years, and he holds several professional designations including the MAI from the Appraisal Institute and the CFA through the Institute of Chartered Financial Analyst. He is a certified general real estate appraiser in Indiana and a licensed real estate broker in Michigan. Allen has been a guest lecturer on real estate valuation for the University of Michigan and Michigan State University graduate business schools, and he has taught beginning appraisal courses for the University of Michigan and Oakland Community College. He has also published articles in the Appraisal Journal relating to the valuation of real property. *Tr. at 9-12; Ex P-1 at 143-144.*

13. During his career, Allen has appraised a wide variety of properties including residential (apartments and subdivisions), retail (regional malls, strip shopping centers, community shopping centers and big box stores), and industrial. In the last five years, he has physically inspected and appraised over 100 big box stores, which he defines as large format stores with little partitioning that contain over 80,000 SF. His prior appraisal work in Indiana has involved the valuation of retail properties for purposes of property tax disputes, including three national big box stores and a mall in the Clarksville area. Allen has testified about the value of a big box store before a state board, court, or tribunal at least 10 times in the last five years, including before the Board. Allen has also been employed as a broker to locate sites for several Walmart stores in metro Detroit and a Meijer store in Charlotte, Michigan. In that capacity, he had conversations regarding the factors that big box retailers believe are important for potential store locations. *Tr. at 13-19; 36; Ex P-1 at 143.*

14. We find that Allen's experience and training bolster the credibility of his opinions as an expert in the valuation of property.

15. Allen personally examined the subject property in June of 2023. He met with the store manager, walked the site, and inspected the interior and exterior of the building, including the roof, the mechanical room, the electrical room, and other behind the scenes areas. Based on his inspection, Allen concluded that the building was in average condition and the site improvements were in below average condition on January 1, 2022. *Tr. at 34, 36-38; Ex P-1 at 2-3, 25.*

16. Although Allen was asked to value the subject property based on its current use regardless of its highest and best use, he concluded that its current use and highest and best use are both retail. The improvements are not so specialized that they could not be used by another retailer, and they are of a type that is commonly exchanged in the market. *Tr. at 62-65; Ex P-1 at 41.*

17. For this assignment, Allen estimated the market value-in-use of the fee simple interest in the subject property as of January 1, 2022, and he certified that his appraisal complies with Standard 1 and Standard 2 of the Uniform Standards of Professional Appraisal Practice ("USPAP"). He developed all three traditional valuation methodologies: the sales comparison approach, the income capitalization approach, and the cost approach. Allen concluded that the sales comparison and income capitalization approaches were more applicable than the cost approach. He deemed the cost approach less reliable because of the difficulty in estimating accrued depreciation and obsolescence without extracting it from the other valuation approaches, and because buyers and sellers of this property type do not typically rely on it. And he ultimately placed primary reliance on the sales comparison approach because that is the approach market participants would most likely use to determine price. *Tr. at 25-27, 65-69; Ex P-1 at 2-4, 8-9, 51; Ex. P-6 at 14, 19.*

a. Allen's Market Overview

18. The subject property is located in the Louisville Metropolitan Statistical Area ("MSA"), a large MSA comprised of twelve counties in Indiana and Kentucky. The economic outlook for the Louisville MSA is generally positive, with steady job growth, low unemployment, a thriving healthcare sector, and a strong education sector. Allen defined the subject property's neighborhood as the area within a half mile radius around it. The neighborhood is well-serviced by an established transportation network that provides good access to major highways, including I-65. It is in the stabilized stage of its lifecycle and supports a variety of land uses. *Tr. at 38; Ex P-1 at 10-16.*

19. Allen described the general retail market as being in a transitionary phase due to the over-supply of malls, department stores, and big box stores, the growth of e-commerce, and changes in retailers' financial positions. He reviewed market trends for big box retail properties and found that around 2015, the cumulative closings of retail stores started to outpace store openings—a trend that continued up through January 1, 2022. The

pandemic further accelerated store closures because retailers had to close their stores during 2020, and some were not able to reopen or to get reestablished post-pandemic. Big box properties in Indiana have been impacted by this trend in store closures. Clarksville has also seen a number of store closures including a Sears, a Kmart, a Walmart, and a Kroger. *Tr. at 38-41; Ex P-1 at 42-50.*

20. Allen concluded that the market conditions he identified translate into obsolescence because they result in less demand and lower prices. Retailers have also started shrinking their existing locations and are moving to smaller-format stores. For example, data on all of the stores Target opened across the nation between 2010 and 2021 shows that there was a dramatic reduction in the average size of new Target stores beginning around 2015 and continuing through 2021. Up through 2014, 94% of new Target stores were over 120,000 SF, but from 2016 through 2021, the percentage of new Target stores with over 120,000 SF dropped to between 3% and 12%. This shows that the subject property is oversized for Target, and it reflects the trends in the overall market where large stores are no longer as desirable, resulting in less demand for them. *Tr. at 41-53; Ex P-5.*

21. Allen also researched big box development trends in Indiana. He conducted a CoStar search of retail freestanding single tenant properties in Indiana ranging from 80,000 SF to 225,000 SF, which mirrored the search parameters Hall used as part of his market segmentation analysis. Allen's search identified the same 154 properties as Hall's search. Allen then graphed the data to show the number of big box properties built in each decade from the 1930's through the 2020's. From 2010 to 2019, there were a total of eleven large format, single tenant retail properties constructed, while the search identified zero such properties constructed in 2020 or later. Based on the CoStar data, Allen concluded that big box retailers were not developing large format, single tenant stores across Indiana in or after 2020. *Tr. at 55-58; Ex P-3 at 1-13.*

22. Additionally, Allen concluded that there had been an increase in e-commerce sales in the 5–7 years leading up to January 1, 2022. This trend accentuated the oversupply of retail

stores because e-commerce reduces the need for brick-and-mortar stores. The use of buy online/pick up in store ("BOPIS")(a/k/a click-and-collect) requires about 3,000 SF to 4,000 SF of space, but it does not require additional space—the retailers are just trying to utilize their existing space as they downsize their stores. BOPIS has not stopped the closure of big box properties. Nor has it resulted in the construction of more big box retail properties. It has also had no impact on the per square foot values at which existing big box properties transact, as they continue to sell for less than their depreciated replacement costs new. Thus, Allen concluded that BOPIS does not ameliorate the presence of obsolescence. *Tr. at 59-62; Ex P-1 at 50.*

b. Allen's Sales Comparison Approach

23. Allen began his sales comparison approach by searching for fee simple sales of comparable big box retail properties that sold between 2016 and 2021. He expanded his search beyond Clarksville and Indiana because buyers of this type of property tend to be regional or national companies that are looking throughout the Midwest. But he tried to find properties as close as possible to the subject property and within similar economic areas. Allen did not use any leased fee or sale/leaseback sales. *Tr. at 69-72, 84-86; Ex P-1 at 52-53.*

24. Allen identified seven primary comparable sales, all of which he physically inspected. Four are in Indiana and three are in Michigan. They have sizes ranging from 65,006 SF to 186,763 SF, and they were all used for retail prior to sale. Each comparable sale was a single occupant retail property at the time of sale and each sale transferred a fee simple interest to the buyer. Although Allen claimed that they were all purchased for retail use, the buyer of Sale 4 intended to open a family entertainment center selling food, beverages, and recreational experiences. And Sale 6 was purchased by U-Haul for use as an indoor climate-controlled self-storage facility. Thus, we find both properties were converted to non-retail use post-sale. Also of note, Sale 5 was purchased by a developer who intended to market the property for multi-tenant retail use, and Sale 7 was demised into two separate tenant spaces after sale. Prior to adjustment, Allen's comparable sales

had prices ranging from $12.55/SF to $40.00/SF. *Tr. at 84-89, 96-97, 102, 268-269, 273-274; Ex P-1 at 53-69, 81.*

25. The seven comparable sales Allen selected are summarized as follows:

Sale Details	Subject	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5	Sale 6	Sale 7
Development	Target	Kroger	Walmart	Menards	Marsh	Lowe's	Big Kmart	Super Walmart
Location	Clarksville, IN	Indianapolis, IN	Hammond, IN	Portage, MI	Ft.Wayne, IN	Portage, IN	Byron Twp., MI	Hartland Twp., MI
Sale Date		Sep-17	Nov-17	Mar-18	Sept-20	Jun-19	Jun-19	Jul-16
Building Area (SF)	124,880	65,006	145,554	81,569	65,732	133,841	115,440	186,763
Year Built	2005	2000	2000	1988	2003	2003	1993	2009
Land Size	10.06	6.01	11.27	12.76	10.94	12.39	10.47	22.92
LTB Ratio	3.52	4.03	3.37	6.81	7.25	4.03	3.95	5.35
Rights Conveyed		Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
SalePrice/SF		$40.00	$17.86	$34.33	$12.55	$28.56	$27.07	$22.35

Tr. at 89-104; Ex. P-1 at 56-69, 81.

26. In researching sales of big box retail properties in Indiana, Allen also identified a former Sam's Club in Indianapolis (Hall's Comparable Sale 2) that had sold. However, Allen confirmed through correspondence with the seller (Walmart) that it was sold as part of a bulk sale of five Sam's Club stores (which also included Hall's Comparable Sale 3), and that the buyer (At Home) was allowed to allocate the purchase price among the properties according to its business needs instead of their market value. He therefore excluded it from consideration because its reported sales price was not agreed upon by the buyer and seller. *Tr. at 105-111; Ex. P-4; Ex. R-1 at 143-144.*

27. Allen considered making the following adjustments to his comparable sales to account for differences with the subject property:

- Expenditures after sale - Allen concluded no adjustments for capital expenditures after sale were necessary for any of his comparable sales because the changes made to them reflected the specific remodeling and renovations that the buyers wanted for their specific retail operations, not items that the sellers would agree were necessary for the retail use of the properties. *Ex. P-1 at 70; Tr. at 112-114.*
- Property rights – Sales 1, 2, 5, and 7 sold with deed restrictions, limiting some future retail use of the properties from 4 to 50 years. Based on his discussions with the brokers and grantors involved in the transactions, Allen concluded that none of the deed restrictions affected the properties' purchase prices. Nevertheless, Allen reviewed two national big box studies, one of which indicated that on average, deed restrictions have a small downward effect on sales prices. He therefore applied an upward adjustment of 5% to Sales 1, 2, 5, and 7. *Ex. P-1 at 70-71, 81; Tr. at 114-117.*
- Financing terms/conditions of sale – Allen concluded no adjustments were necessary because all the sales were arm's-length cash, or cash equivalent sales. *Ex. P-1 at 71; Tr. at 117-118.*
- Market conditions – Allen evaluated each comparable sale to determine whether an adjustment for changes in market conditions between its date of sale and the valuation date. He reviewed CoStar sale price trends, and market trends in retail rents, retail vacancies, and retail capitalization rates within the Indianapolis MSA, the state of Indiana, and the comparable sales' MSAs. In general, the data showed retail property values increasing from 2017 through 2021. From this data, Allen concluded to an annual market conditions adjustment of 2% from year-end 2016 through year-end 2017, a 3% adjustment for 2018 and 2019, a 0% adjustment for 2020 due to the Covid-19 pandemic, and a 5% adjustment for 2021. Applying his conclusions (rounded to the nearest 1%) to each of his comparable sales through January 1, 2022, resulted in market condition adjustments of 12% for Sale 1, 12% for Sale 2, 11% for Sale 3, 5% for Sale 4, 7% for Sale 5, 7% for Sale 6, 15% for Sale 7. *Ex. P-1 at 71-75, 81; Tr. at 118-123.*

- Size/Configuration – In general, smaller stores tend to have higher sales prices per square foot than larger stores. Allen completed a matched-pair analysis indicating that Sale 7, which originally sold as a 186,783 SF store and later resold as a 78,434 SF store, sold at a 16.8% discount per square foot when it sold as a larger property. He also reviewed a Situs RERC study with average and median sale prices for four different size categories that indicated discounts from 4.5% to 23.5% for three of the four different size categories. Based on those analyses, Allen adjusted Sales 1 and 4[5] downward by 10% due to their smaller building sizes (65,006 SF and 65,732 SF, respectively). *Ex. P-1 at 75-76, 81; Tr. at 123-125.*
- Arterial attributes – Because arterial attributes are very important to retail buyers, Allen compared the access, visibility, and traffic counts for each of his comparable sales to the subject property. He concluded that Sales 1, 6, and 7 are superior to the subject, while Sales 2, 3, and 5 are inferior to the subject. He therefore adjusted Sales 1 and 7 downward by 10%, Sale 2 upward by 10%, Sales 3 and 5 upward by 5%, and Sale 6 downward by 5%. Because he deemed Sale 4 to be similar to the subject, it did not receive an adjustment. *Ex. P-1 at 76-77, 81; Tr. at 126-127.*
- Demographic attributes – Allen looked at demographic data on population, households, median household income, average household spending, spending power, population change, and five-year projected population for both a five-mile and ten-mile radius around the subject property and his comparable sales. Of those demographic factors, Allen believes that spending power (average household spending times the number of households in the area) is the most important to market participants because they are trying to get a share of that spending. He concluded that Sales 3 and 4 had similar demographics to the subject property and needed no adjustments. Allen applied downward adjustments of 5% to Sales 1 and 6 due to their superior demographics, and he

[5] In his Size/Configuration narrative, Allen misidentified Sales 2 and 5 as the two smaller sales that received size adjustments. *Ex. P-1 at 75-76, 81.*

made upward adjustments of 5% to Sales 2 and 5 and 10% to Sale 7 because he concluded they had inferior demographics. *Ex. P-1 at 77-79, 81; Tr. at 127-130.*

- Submarket – Allen analyzed the reported submarket trends for the subject property and his seven comparable sales by looking at their effective market asking rents (the asking retail rent less the market vacancy of each particular location). He concluded that Sale 1 had a similar submarket and needed no adjustment, while the remaining six sales all had inferior submarkets for which he applied upward adjustments of between 10% and 25%. *Ex. P-1 at 79, 81; Tr. at 130-131.*
- Surplus land – Sale 3 had enough surplus land to accommodate a 27,000 SF building expansion. Allen therefore applied a 15% downward adjustment to Sale 3 to account for this superior attribute. *Ex. P-1 at 79, 81; Tr. at 135.*
- Age/Condition – Allen compared the effective ages of his comparable sales as of their dates of sale to the age of the subject property as of the date of value. He then adjusted them by 1% for each year of difference between their effective ages and the subject's physical age of 16 years. Allen based the 1% per year adjustment on data from a Situs RERC study of sales of big box retail properties. *Ex. P-1 at 79-81, 85; Tr. at 131-133.*

28. Allen also considered seven additional sales from Indiana to get a fuller picture of the market before concluding to an indicated value for the subject property. But he noted that he did not use them as primary sales because a lot of them were sold for non-retail uses (Sales 1, 2, and 4 were converted to office use post-sale) and that the buyers were willing to pay a higher price than retailers. Allen also reviewed two big box studies that focused on sales of big box stores across the nation. These two national studies show that Midwest properties tend to be on the lower end of the national range, with higher prices in Florida, the west coast, and in the Northeast. The data from the Harrington study showed that 83% of fee simple sales transacted for less than $40/SF, while only 5% of sales transacted for more than $50/SF. The study prepared by Situs RERC relied on national data from 843 sales of big box and junior box stores from 2010 to 2018, 436 of

which were fee simple sales. Allen noted that the median sale price from the study ($32.98/SF) is pretty close to his estimate. *Ex. P-1 at 82-85; Tr. at 135-144.*

29. After adjustment, Allen's seven primary comparable sales had indicated market values ranging from $14.38/SF to $40.67/SF, and an average value of $32.07/SF. After analyzing his comparable sales, he noted the following:

- Sales 2, 5, 6, and 7 are the closest in size to the subject property and sold for an average adjusted price of $33/SF.
- Sales 1, 3, 4, 5, and 6 are the most similar in terms of locational (arterial and demographic) attributes and sold for an average adjusted price of $32/SF.
- Sale 1 is the most similar in terms of retail submarket characteristics and sold for an adjusted price of $37/SF.
- The four sales that required the least amount of gross adjustment had an average adjusted sale price of $30/SF.
- The four sales that required the least amount of net adjustment had an average adjusted sale price of $31/SF.
- Eliminating the high and low sales produces an overall average sale price of $34/SF.
- Excluding Sale 4, which he considered an outlier in terms of the market, produced an average price closer to $35/SF.
- Excluding Sale 5, which had a sale price in the mid-range of all his sales data, would not have changed his conclusion.

Tr. at 100-101, 144-145; Ex. P-1 at 86.

30. Allen ultimately concluded to a value of $36.00/SF. Multiplying that value by 124,480 SF produced an indicated value of $4,480,000 (rounded) as of January 1, 2022. However, Allen erroneously used a square footage of 124,480 instead of 124,880. Using the correct square footage produces an indicated value of $4,495,680 (a value less than

1% higher than Allen's indicated value). *Tr. at 144-145; Ex. P-1 at 86.*

c. Allen's Income Capitalization Approach

31. Allen developed his income capitalization approach by using the direct capitalization of net operating income technique. It involves estimating gross potential rental income, deducting for vacancy and collection loss, deducting operating expenses to arrive at net operating income ("NOI"), capitalizing the NOI with an overall rate of return, and subtracting stabilization costs. *Tr. at 145; Ex. P-1 at 87.*

32. In order to estimate the subject property's potential market rent, Allen looked at the market rent from similar existing buildings. He researched leases of comparable big box retail properties and identified 25 leases to potentially use in his analysis. Seven of the properties are build-to-suit leases and the rest are leases for existing big box stores (although a couple are smaller than a typical big box store). All of them were existing leases that resulted from listing the properties for lease on the open market; none are lease renewals, renegotiated leases between related parties, or leases resulting from a sale-leaseback. From that list, Allen selected seven comparable leases for further analysis. The properties were built between 1979 and 2000, and one was renovated in 2021. All seven are single occupant properties leased for retail use, one is located in Indiana and the remaining six are from states bordering Indiana, all but two of the seven comparable leases are big box stores, and all but one were triple net ("NNN") leases. Allen physically inspected six of the seven properties (Lease 17 being the exception) to develop impressions of their neighborhoods and the buildings themselves. *Tr. at 146-147, 149-150; Ex. P-1 at 87-103, 107.*

33. The seven comparable leases Allen selected are summarized as follows:

- Lease 10 (Cincinnati, OH) – a December 2013 NNN lease of 79,348 SF to Floor & Decor for a term of 10-years at a rental rate of $5.50/SF.
- Lease 13 (Elkhart, IN) - a June 2017 NNN lease of 86,581 SF to Big R for a 10-

year term at a rental rate of $2.75/SF.

- Lease 14 (Warren, MI) - a November 2017 NNN lease of 101,773 SF to G4 Complete Entertainment for a 5-year term at a rental rate of $4.75/SF for use as a family entertainment center.
- Lease 15 (Shelby Twp., MI) - a September 2019 NNN lease of 91,500 SF to Floor & Décor for a 10-year term at a rental rate of $6.25/SF. The lease includes a tenant improvement allowance of $4.61/SF.
- Lease 16 (Toledo, OH) – a February 2020 NNN lease of 66,258 SF to Urban Air Adventure Park for a 10-year term at a rental rate of $7.45/SF for use as a family entertainment center and trampoline park.
- Lease 17 (Lexington, KY) – a February 2020 NNN lease of 82,688 SF to Floor & Decor for a 10-year term at a rental rate of $7.50/SF.
- Lease 18 (Perrysburg, OH) – a March 2022 gross lease of 56,588 SF to Gabe's for a 10-year term at a rental rate of $8.65/SF.[6]

Tr. at 150-151, 332, 337; Ex. P-1 at 91-104, 107.

34. Before adjustment, Allen's seven comparable leases had rental rates ranging from $2.75/SF to $8.65/SF. He adjusted them for differences in market conditions, size, arterial attributes, demographic attributes, retail submarket attributes, and age/condition. Allen applied age/condition adjustments ranging from 1.5% to 10%. Allen based his market conditions adjustment on the trend in retail rents between 2014 and 2021. He used data on traffic counts to make his arterial attribute adjustments, while he used population, median household income, and average household spending data to make his demographic adjustments. Allen also adjusted Lease 18 downward by $2.80/SF because it was a gross lease instead of a NNN lease, which means that the landlord pays the taxes, insurance, and common area maintenance ("CAM") without reimbursement from the tenant. While the offering memorandum for Lease 18 contains information showing that

[6] While the individual write-ups show lease dates for Leases 10 and 17 of December 2013 and February 2020 respectively, the adjustment grid lists their lease dates as June 2014 and January 2022. *P-1 at 91, 101, 107.*

the property's 2021 real estate taxes, CAM, and insurance expenses totaled $2.21/SF, he explained that he used the 2022 real estate taxes to calculate his adjustment. The adjusted leases had rental rates ranging from $4.05/SF to $6.96/SF, and an average rate of $5.42/SF. After considering the comparable leases and the location and features of the subject property, Allen concluded to a retrospective NNN market rental rate of $5.40/SF as of January 1, 2022. *Tr. at 151-155, 339-340; Ex. P-1 at 89, 103, 105-107; Ex. R-30 at 4.*

35. Allen also accounted for vacancy and credit loss. He looked at the average retail vacancy in the market and the typical vacancy and credit loss for big box stores. Large big box stores take longer to lease and generally have an extended vacancy period compared to smaller retail stores. He included a vacancy and credit loss factor of 5%, which equates to approximately six months of uncollected rent every 10 years. While the 5% adjustment reflects stabilized occupancy, Allen noted that it does not account for the cost of achieving stabilized occupancy. *Tr. at 155-159; Ex. P-1 at 107-108.*

36. The most common form of leasing is NNN, in which the tenant either pays directly or reimburses the landlord for property taxes, insurance and CAM expenses. Property taxes would normally be included as a reimbursable expense in the income approach, but Allen chose to account for them by using a tax-loaded capitalization rate. He did, however, estimate the other two types of reimbursable operating expenses—CAM expenses and insurance. After considering reported CAM expenses for shopping centers and for four comparable big box retail properties, Allen estimated CAM expenses for the subject property of $1.00/SF. And after reviewing income/expense data of insurance expenses, he estimated insurance expenses of $0.25/SF. Allen also accounted for unreimbursed operating expenses. He included a 3% management fee to cover the administrative effort, and the costs needed to manage the subject property, including rent collection and supervising building capital improvements. He also deducted $0.25/SF as an annual reserve amount for future capital improvements, which he based on a PWC survey indicating a range for reserves of $0.10/SF to $0.50/SF. *Tr. at 159-161; Ex. P-1 at 108-*

109.

37. A property's NOI is equal to the gross annual income less vacancy and credit loss, and less expenses incurred by the landlord. To calculate the subject property's NOI, Allen 1) multiplied his market rental rate of $5.40/SF by 124,480 SF; 2) added in CAM and insurance reimbursement income; 3) deducted for vacancy and credit loss; and 4) deducted the CAM, insurance, management fee, and replacement reserve expenses. Based on his calculations, Allen concluded to a NOI of $576,090 as of January 1, 2022. However, as with his sales comparison approach, Allen erroneously used a square footage of 124,480 instead of 124,880. Using the correct square footage produces an NOI estimate of approximately $577,942. *Tr. at 163-164; Ex. P-1 at 110.*

38. To select an appropriate direct capitalization rate, Allen used the band-of-investment technique and reviewed investment surveys. His band-of-investment analysis relied on survey data from Realtyrates.com for the Retail - Freestanding category. For the first quarter of 2022, Allen's analysis indicated a range of capitalization rates from 4.92% to 14.07%, with an average of 8.10%. He then reviewed investor capitalization rate survey data from a PWC Real Estate Investor Survey from Q4 2021, a Realtyrates.com Investor Survey from Q1 2022, a Boulder Group Net Lease Big Box Report from Q4 2021, and a CBRE survey from the first half of 2021. The PWC survey had overall rates ranging from 5.5% to 8.25% and 5.0% to 7.5% for National Power Centers and National Net Lease property types, respectively. The Boulder Group reported average median asking cap rates for National and Midwest properties of 6.25% and 6.75%, respectively. Realtyrates.com reported overall rates ranging from 5.04% to 13.10% for the Retail – Freestanding category. And CBRE's survey reported overall rates ranging from 7.5% to 8.25% for Indianapolis Power Center, Stabilized Class A properties. Based on his analysis, Allen concluded to an overall capitalization rate of 8.50% as of January 1, 2022. He explained that his concluded rate is higher than the institutional rates because it would be a secondary user investment, and because there is higher risk due to it being a fee simple sale (i.e., no tenant in place). And he concluded to a rate lower than the average

rate reported by Realtyrates.com, which included both institutional and noninstitutional retail. *Tr. at 165-168; Ex. P-1 at 111-112.*

39. Allen then loaded his overall capitalization rate to account for property taxes that the owner would pay during periods of vacancy. After reviewing an offering memorandum from his work file that did not have a property tax load added to the listed capitalization rate, he explained that the market does not typically use tax-loaded cap rates, but that appraisers do for property tax situations. Multiplying a 3% net tax rate by his concluded vacancy rate of 5% produced a tax load of 0.15% and resulted in a tax loaded overall rate of 8.65%. Capitalizing Allen's NOI estimate ($576,090/8.65%) produced a capitalized net operating income of $6,660,004. However, capitalizing the NOI estimate calculated using the correct square footage ($577,942/8.65%) produces a capitalized net operating income of $6,681,410. *Tr. at 168-169, 356; Ex. P-1 at 112-113, 115; Ex. R-29 at 6.*

40. After capitalizing his projected NOI, Allen made additional deductions for leasing commissions, tenant improvement allowance, and holding costs because the capitalized NOI assumes all these things are in place—the tenant is already there, the leasing commissions have been paid, the holding period is over, and the space is already built out. Allen elected to take a one-time deduction of $201,658 for the leasing commissions needed to hire a broker to find a tenant and negotiate a lease, which he based on 6% of the estimated annual base rental income over the first five years of the lease term. However, using an annual base rental income calculated using the correct square footage produces estimated leasing commissions of $202,305. Allen also deducted $622,400 for tenant improvements needed to secure a tenant and move them in, but using the correct square footage produces an estimated tenant improvement allowance of $624,400. He calculated the deduction using a lease up period of 12 months, which in his experience was how long big box stores stay vacant. Allen also considered data from CoStar that showed an average marketing time of 14 months and an average vacancy period of 17 months for stores larger than 50,000 SF. He used an allowance of $5/SF, which he found to be normal for big box stores based on Lease 15's tenant improvement allowance of

$4.61/SF. Finally, Allen deducted holding costs of $827,792 to account for the loss of return and lost reimbursement for property expenses during his estimated one year lease up period. However, using the correct square footage produces estimated holding costs of $830,452. *Tr. at 169-171, 367-368; Ex. P-1 at 97, 113-115.*

41. Deducting the leasing commissions, tenant improvement allowance, and holding costs from Allen's capitalized NOI estimates resulted in an indicated value of $5,010,000 (rounded) as of January 1, 2022. However, when calculated using the corrected NOI estimate of $577,942 and the corrected leasing commission, tenant improvement allowance, and holding cost estimates, the resulting value is $5,024,253 (a value less than 1% higher than Allen's indicated value). *Tr. at 171; Ex. P-1 at 115.*

d. Allen's Cost Approach

42. The first step in Allen's cost approach was determining the value of the subject property's 10.06 acres of land using the sales comparison approach. He noted that there has been a lack of sale activity in Clark County for vacant commercial land sales that would be comparable to the subject property. Allen selected the following four comparable land sales that were purchased for similar retail development in the subject market and surrounding markets in Indiana:

- Land Sale 1 (Noblesville, IN) - a 10.40-acre commercial site purchased in September 2021 for $8.17/SF for construction of a B.J.'s Wholesale, which is a big box store.
- Land Sale 2 (Indianapolis, IN) - a 23.34-acre commercial site purchased in July 2015 for $5.03/SF for development of a Costco store.
- Land Sale 3 (Evansville, IN) - an 8.97-acre commercial site purchased in November 2019 for $6.40/SF by K2 Retail and developed into multi-tenant shopping center with a Michael's and a Dollar Tree (an additional pad site remains undeveloped).

- Land Sale 4 (Jeffersonville, IN) – a 4.36-acre commercial site offered for sale for $5.00/SF.

Tr. at 173-174; Ex. P-1 at 116-119, 121.

43. Allen adjusted his four comparable land sales for conditions of sale, market conditions, size, arterial attributes, demographic attributes, and retail submarket. Allen calculated his market conditions adjustments using the same process and year-over-year changes he used in his sales comparison approach. After adjustment, his sales ranged in price from $215,300/acre to $336,709/acre, with average and median prices of $271,920/acre and $267,835/acre, respectively. Allen noted that three of the adjusted land sale prices are below $300,000 while one is above $300,000. He concluded to a market value of $270,000/acre, producing a total land value of $2,720,000 (rounded) for the subject property's 10.06-acre site as of January 1, 2022. *Tr. at 174-175; Ex. P-1 at 120-121.*

44. Allen used Marshall Valuation Service ("MVS") to estimate the replacement cost new ("RCN") of the subject property's improvements. He classified the building as average quality, Class C discount store and selected a base cost of $70.50 to which he added a $2.51/SF adjustment for sprinklers, resulting in a total cost estimate of $73.01/SF. Multiplying that value by 124,480 SF produced a base building cost of $9,088,285. Allen then adjusted his base building cost for story height and perimeter and applied local and current multipliers, resulting in a replacement cost estimate of $9,815,911. However, as with the other approaches, Allen erroneously used a square footage of 124,480 instead of 124,880. Using the correct square footage produces a base building cost of $9,117,488. Applying the same adjustments for story height and perimeter that Allen used, along with the same local and current multipliers, results in a replacement cost estimate of $9,847,452. *Tr. at 176-177; Ex. P-1 at 121-122.*

45. The subject property's site improvements include the asphalt and concrete parking, roadways, lighting, and lawn/landscaped yard areas. Allen noted that most of the cost is

in the parking lot, which includes landscaping, striping, parking spaces, and entryways for the parking lot. He also included the cost of the truck loading area, which is typically paved with concrete. For the surface parking improvements, MVS's cost per space was $2,390, producing a base cost of $1,493,750. For the 19,150 SF of concrete paving in the truck loading area, MVS's cost per square foot was $6.50, producing a base cost of $124,475. He adjusted the resulting total base cost using local and current multipliers, resulting in a replacement cost estimate for the subject property's site improvements of $1,810,146. *Tr. at 177; Ex. P-1 at 122-123.*

46. While MVS includes most soft costs related to construction of the building such as architectural and engineering fees, interest during construction, and building permits, it does not include any developer costs for marketing or financing the property, or for managing the construction. Soft costs are principally accounting for the developer's profit in managing the construction, which Allen estimated would be 5% of the total replacement cost for the building and site improvements, or $581,303. Allen also included $201,658 for leasing commissions (as calculated in his income approach) because he is valuing the subject property as if it is unencumbered by a lease. He allocated 84.43% of the total soft costs to the building improvements, with the remaining 15.57% allocated to the site improvements. Allen's calculations produced undepreciated replacement cost estimates of $10,476,966 for the building improvements and $1,932,051 for the site improvements. However, correcting the values and calculations affected by Allen's erroneous use of 124,480 SF produces undepreciated replacement cost estimates of $10,510,384 for the building improvements and $1,932,399 for the site improvements. *Tr. at 177-179; Ex. P-1 at 123-124.*

47. Allen considered three elements of depreciation: physical, functional, and external depreciation. Physical depreciation, or physical deterioration, is a loss of value due to the wear and tear on improvements over time, functional obsolescence is a loss of value due to factors within the property's boundaries, and external obsolescence is a loss of value due to factors outside of the property's boundaries such as market conditions or

neighboring land usage. *Tr. at 179; Ex. P-1 at 124-126.*

48. To calculate physical deterioration, Allen used an age/life method. He used the subject property's actual age of 16 years and a useful life of 35 years for the subject building, which he based on MVS's mortality studies for discount retail buildings of average quality, Class C construction. And for the site improvements, Allen used an estimated age of 10 years and a useful life of 15 years. Based on his calculations of straight-line depreciation for both the building and site improvements, Allen concluded the amount of total physical depreciation affecting the subject property was $6,077,504. However, calculating physical depreciation using the corrected undepreciated replacement cost estimates for the building improvements ($10,510,384 x 45.7%) and for the site improvements ($1,932,399 x 66.7%) produces total physical depreciation of $6,092,155. *Tr. at 179-180; Ex. P-1 at 124-125.*

49. To determine whether the subject property was affected by functional or external obsolescence, Allen looked at the market to see what was happening with retail sales and rents. Regarding functional obsolescence, he opined that big box stores like the subject property are never built on a speculative basis and that buyers will typically modify the building for their own retailing needs. They will often change the façade, the lighting, the floor covering, the ceiling covering, and the electrical. As far as external obsolescence, Allen noted that there is generally an oversupply of big box retail stores, allowing retailers such as At Home to make a big splash by taking over a lot of stores. *Tr. at 180-182; Ex. P-1 at 125-126.*

50. To quantify his obsolescence deduction, Allen used the capitalization of deficient income method, and the market extracted depreciation method. The capitalization of deficient income method estimates the income necessary to support the value of the property without obsolescence, subtracts out the projected NOI developed in the income approach, and capitalizes the difference to determine the amount of obsolescence. Allen's calculation produced a required NOI for feasibility of $1,308,660. From that, he

subtracted the projected NOI value of $576,090 produced by his income approach to arrive at a deficient income estimate of $732,570. Allen then capitalized his deficient income estimate using the overall cap rate of 8.65% from his income approach and subtracted out his physical depreciation estimate of $6,077,504, resulting in total estimated obsolescence of $2,391,510 (19% of RCN and 16% of RCN + land). However, calculating total obsolescence using the corrected estimates discussed above results in estimated obsolescence of $2,389,209 using the capitalization of deficient income method. For the market extraction method, Allen calculated the difference between the subject property's total replacement cost (including land) and his concluded value from the sales comparison approach to determine total depreciation. He then subtracted out his total physical depreciation estimate for the building and site improvements from his total depreciation estimate, resulting in an obsolescence estimate of $4,571,514 (37% of RCN and 30% of RCN + land). However, calculating total obsolescence using the corrected estimates discussed above results in estimated obsolescence of $4,574,948 using the market extraction method. Based on the results of both methods, Allen concluded that the subject property had obsolescence of $3,474,525 (28% of RCN) as of January 1, 2022. *Tr. at 184-188; Ex. P-1 at 125-129.*

51. To arrive at his final estimate of value under the cost approach, Allen subtracted his estimate of total depreciation from his total replacement cost for the building and site improvements and added it to his estimated land value. Next, he subtracted out leasing commissions and holding costs (as estimated in his income approach), resulting in an indicated value of $4,550,000 (rounded) as of January 1, 2022. However, as noted above, many of Allen's calculations were affected by his erroneous use of 124,480 SF as the size of the subject property's building.[7] *Tr. at 188-189; Ex. 1 at 129-131.*

[7] We did not venture to calculate the error's effect on Allen's estimation of total depreciation, or on his ultimate value conclusion under the cost approach, but we infer it would result in a *de minimis* change given the minor effect it had on his conclusions under the other two approaches.

e. Allen's Reconciliation

52. In his reconciliation, Allen considered the relevance of all three valuation approaches based on the amount and reliability of the data used in each approach. He placed the most weight on the sales comparison approach because it is the method market participants would rely on the most to determine price. He considered the income approach less reliable than the sales comparison approach because it is not common for big box stores of the subject property's size to be leased and because leasing data is not available from county records like sales data is. Also, the income approach is most applicable to investment properties, and the market for big box stores is stronger for owner/user buyers than investors. Allen assigned the cost approach the least weight because he had to use information from his other approaches to quantify obsolescence, making it less independent. Based on his analysis, Allen ultimately reconciled to a final value conclusion for the subject property's retrospective market value-in-use of $4,650,000 as of January 1, 2022. *Tr. at 67-69; 189-193; Ex. P-1 at 132; Ex. P-6 at 14, 19.*

2. Hall's Appraisal

53. The Assessor offered an appraisal report from David Hall, MAI, AICP, a managing director of Integra Realty Resources ("IRR") in Indianapolis. He was hired by IRR in 2005 and has been with the firm for 18 years. Hall has a bachelor's degree from the College of Architecture and Planning at Ball State University and an MBA from The Ohio State University. Hall is licensed as an Indiana Certified General Appraiser. He received his MAI designation from the Appraisal Institute in 2012, and he obtained an AICP designation from the American Institute of Certified Planners while employed as a county planner in Bloomington, Indiana. Hall has appraised property in 49 states (mostly through temporary licenses), and he has testified in front of several dozen tribunals and courts in Indiana. His current workload is a mix of market value-in-use appraisals, market value appraisals, and purchase price allocations, with approximately half of them being for property tax purposes. The appraisals cover the full spectrum of property types

including retail, office, industrial, multi-family, and mixed-use. In the past five years, Hall has prepared more than 30 big box appraisals. *Tr. at 437-445; Ex. R-2 at 3.*

54. Hall personally inspected the subject property on June 16, 2023. He elected to develop all three traditional approaches to value (the cost, sales comparison, and income capitalization approaches) because market participants (buyers, sellers, brokers) would typically consider all three and he had adequate market data to develop all of them. His appraisal report[8] values the retrospective market value-in-use of the subject property's fee simple interest as of January 1, 2022, and he certified that he prepared it in conformity with USPAP. *Tr. at 447-448, 450-451, 458, 462-463, 684-685; Ex. R-1 at 4-6, 11, 14, 16-17, 20-23, 198-199.*

a. Hall's Market Overview

55. Hall developed an economic and demographic analysis to help him understand the characteristics of the subject property's market that impact sales prices and rental rates such as supply and demand. He looked at trends in population, employment, gross domestic product, and household incomes in Clark County and compared them to data for the Louisville MSA and the State of Indiana. Hall noted that the county had positive economic and demographic trends in the years prior to the Covid-19 pandemic. In 2020, the pandemic caused job losses that decreased total employment in the county by 1.1% and led the unemployment rate to spike to more than 7%. However, in 2021, Clark County saw increases in both population and employment, and its unemployment rate fell to 3.2% (the lowest annual rate reported since 2012). Additionally, the county's GDP grew by 2.7% and its median household income level was slightly higher than the corresponding benchmark for the State of Indiana. *Tr. at 464-470; Ex. R-1 at 24-29.*

56. The subject property's neighborhood is located about five miles away from Louisville. It

[8] Hall's appraisal report has two sets of page numbers—the report's original page numbers appear in the upper right-hand corner starting after the Table of Contents while another set appears in the lower right-hand corner starting on the cover page. We will cite to the report using the page numbers in the lower right-hand corner.

is close to Interstate 65 and Interstate 265 and benefits from good highway access and access from several commercial thoroughfares. The neighborhood is in the growth stage of its lifecycle. Although there is still vacant land available and development is continuing, the pace of construction has been slowing due to the diminishing supply of vacant land. The subject property anchors the northeast end of the Waterford Park North shopping center. As of 2020 and 2021, the shopping center was approximately 99% and 98% leased, respectively, which is a good indication of adequate demand. The surrounding area has good appeal for retail use, and it contains a diverse mix of supporting retail, office, lodging, multifamily, shopping center complexes, and big box retail stores. *Tr. at 471-475, 479-480; Ex. R-1 at 31-35, 39.*

57. Hall also developed a market segmentation analysis to help understand the subject property's characteristics and the market in which it competes. Based on the subject property's physical characteristics and occupancy history, Hall concluded it is a big box retail property that is best suited for either owner-occupancy or occupancy by a single tenant. Its customer base would likely be from a primary retail trade area of approximately five miles, and it is in direct competition with eight other big box retail properties in Clark County that were built between 1996 and 2015. *Tr. at 475-480; Ex. R-1 at 37-39.*

58. As part of his market segmentation analysis, Hall also developed analyses of market trends in the subject property's primary retail trade area, trends in single tenant, freestanding retail properties in Indiana with more than 80,000 SF, and trends in the national big box retail market. For his analysis of the primary retail trade area, he conducted an analytic survey using CoStar to identify retail properties (including leased properties) within a five-mile radius surrounding the subject property. CoStar reported a total market inventory of 1,532 properties. Between 2013 and 2022, they had an average compound market rent growth rate of 1.9%, and as of January 1, 2022, the average rental rate had increased to $14.18/SF. Between 2013 and 2017, the market vacancy rate was in decline. It fell to just under 4% by 2017 and then fluctuated from 2% to 5% thereafter.

As of January 2022, the vacancy rate was approximately 2.5%. Capitalization rates were in decline between 2013 and 2017. They increased slightly until 2019, then they declined through early 2022. As of January 2022, the average market capitalization rate for all retail properties within a five-mile radius of the subject property was 7.77%. Market sale prices have been steadily increasing since 2013 and had a compound annual growth rate of approximately 5.1% over that period. *Tr. at 480-483; Ex. R-1 at 40-42.*

59. For his review of trends in single tenant, freestanding retail properties in Indiana with more than 80,000 SF, Hall broadened the search area for his CoStar analytic survey to the entire State of Indiana. It resulted in a market inventory of 154 properties. The market rental rate for this group was steadily increasing between 2013 and 2022, and the compound annual growth rate was approximately 1.9%. As of January 1, 2022, the average market rental rate was $14.65/SF. During the same period, vacancy rates were fluctuating within a range of 0% to 3%, and as of January 1, 2022, the market vacancy rate was approximately 1%. Capitalization rates were in decline between 2013 and 2015. Then the trend reversed, and they increased slightly until 2019, before falling again through early 2022. As of January 2022, the average market capitalization rate for this group of properties was 8.32%. Market sale prices were relatively stable between 2015 and 2020, but the average market sale price has been increasing ever since, reaching an average price of $93/SF by early 2022. *Tr. at 483-488; Ex. R-1 at 43-46.*

60. Hall began his review of trends in the national big box retail market by discussing the recent emergence of BOPIS. According to Hall, the rising popularity of BOPIS has helped to support the demand for existing retail stores. He cited several industry sources that described the trend as being particularly beneficial for big box retailers. The pandemic accelerated the adoption of BOPIS, and most big box retailers offer some version of it because they see it as bolstering support for their existing physical stores and as a way to compete with online retailers. Hall also looked at data on national cap rate trends for big box properties compiled by The Boulder Group. According to The Boulder Group, cap rates for big box, large format properties (80,000+SF) were fairly stable

between 2015 and 2021. But cap rates for big box non-investment grade properties with short remaining lease terms, which Hall considers the most relevant, declined between 2019 and 2021. *Tr. at 488-496; Ex. R-1 at 47-52.*

61. Because Hall was determining the subject property's market value-in-use, which is reflective of its current use, a determination of its highest and best use was not necessary. However, a highest and best use analysis can help determine whether a property's market value and market value-in-use are equivalent. It also provides a useful means of identifying any functional or external obsolescence that might exist. After evaluating the subject property's site to determine what uses were physically possible, legally permissible, financially feasible, and maximally productive, Hall concluded that its highest and best use as though vacant was retail use. To determine its highest and best use as improved, Hall considered whether continuing the existing use, modifying the existing use, or demolishing the existing improvements and redeveloping the site would be maximally productive. After reviewing each possibility, he concluded that its highest and best use as improved was continued use as a big box retail property. Said differently, its current use was consistent with its highest and best use as of the effective date. Hall also noted that based on the subject property's location, zoning, physical characteristics, size, occupancy history, and overall investment appeal, the spectrum of probable buyers includes both owner-occupants and investors. *Tr. at 523-527; Ex. R-1 at 104-106.*

b. Hall's Cost Approach

62. Hall began his cost approach by valuing the subject property's land as vacant using the sales comparison approach. He searched Clark County for fee simple sales with 6 to 15 acres of vacant land zoned for commercial, business, or planned development with a proposed retail use that sold between 2013 and January 1, 2022 . He selected the following five land sales for his analysis:

- Land Sale 1 (Jeffersonville, IN) – a 14.62-acre parcel assembled from five adjacent parcels purchased by Kroger for a combined price of $3.61/SF through individual transactions that closed in February 2017 for development of a 131,500

SF grocery store.

- Land Sale 2 (Jeffersonville, IN) - a 6-acre, irregular L-shaped, parcel purchased for $3.83/SF in August 2016 for development of a convenience store with a gas station.
- Land Sale 3 (Jeffersonville, IN) - a 15.82-acre parcel purchased for $4.21/SF in May 2014 for development of a Menards big box home improvement store.
- Land Sale 4 (Jeffersonville, IN) - an 8.86-acre triangular parcel purchased for $3.89/SF in January 2014 for development of a Speedway convenience store and gas station.
- Land Sale 5 (Jeffersonville, IN) – an 8.10-acre triangular site comprised of three parcels that were purchased for $4.89/SF in July 2013 for future commercial development. They were subsequently replatted into four parcels.

Tr. at 531-540; Ex. R-1 at 110-113; R-2 at 37-44.

63. Hall considered adjustments to his comparable sales for effective sale price, property rights, financing terms, conditions of sale, market conditions, location, access/exposure, size, physical characteristics, zoning, and utilities. He concluded no adjustments were necessary for property rights, financing terms, conditions of sale, location, size, zoning, or utilities because the comparable sales were similar enough to the subject property. However, Hall applied market conditions adjustments to all five of his comparable sales because market trends reported in a CoStar analytics survey indicated that demand for retail within a 5-mile radius was strengthening. He calculated the adjustments using an annual growth rate of 2% per year, resulting in market conditions adjustments of 10% to 17%. For his access/exposure adjustment, Hall analyzed several characteristics including traffic counts, proximity to arterial roads/highways, visibility, orientation, and accessibility. Sale 1 received a +10% adjustment due to its inferior visibility and orientation (an average corner site along local streets), while Sales 2 and 5 received -10% adjustments due to their superior visibility and orientation (both sales having excellent, corner sites along commercial thoroughfares, and extensive frontage). Finally, Sale 2 received a +10% adjustment for physical characteristics because its irregular shape and narrow depth limit the options for building configuration and placement. *Tr. at 540-552; Ex. R-1 at 114-120.*

64. The comparable land sales had adjusted prices ranging from $185,000/SF to $224,250/SF, and an average price of $201,365/SF. He liked Sale 3 because it only required an adjustment for market conditions, and it has a big box site similar to the subject property's. Its adjusted sale price was $210,000/acre and Hall gave it "slightly greater weight" in reconciling to an indicated value of $205,000/acre. To test the reasonableness of his primary analysis, he considered the price range of his unadjusted comparable sales. According to Hall, adjusting the midpoint of that range ($185,141/acre) for market conditions would result in a value "pretty close to our opinion of value per acre." Applying his indicated value of $205,000/acre to the subject property's 10.064-acres resulted in a land value conclusion of $2,060,000 (rounded). *Tr. at 553-556; Ex. R-1 at 120-122.*

65. Hall relied on MVS to estimate the replacement cost of the subject property's improvements. He based his estimate on the replacement costs MVS reported for a Class C Warehouse Discount Store of "good" quality. However, in an appraisal of the subject property Hall prepared for property tax purposes for a March 1, 2014 valuation date (the "2014 Appraisal"), he classified the quality of its improvements as "average/good." Hall adjusted the $72.00/SF base cost by $2.50/SF for sprinklers and applied current, local, story height, and perimeter multipliers, resulting in a final unit cost of $79.44/SF for the main building. He also included replacement costs for the building's 500 SF entrance canopy, which had a final unit cost of $59.90/SF after he applied current, local, story height, and perimeter multipliers. *Tr. at 557-558, 562-564, 752-753; Ex. R-1 at 69-71, 123-124, 127; Ex. P-23 at 105.*

66. In addition to the direct costs, Hall included a 10% adjustment to account for indirect costs that are not included in MVS's replacement cost estimates. Market data reported in blog posts by Billd and Buildxact show that total indirect costs usually account for 25% or more of the total project budget. Billd, a company that provides access to construction financing for commercial contractors, reported a range of 25%-75%, while Buildxact, a software company, reported a range of 25%-50%. However, neither company identified

the specific projects or budgets used to develop the percentages they reported—they are just aggregated sources of information unrelated to big box properties. Hall's 10% adjustment represents the difference between the total indirect costs he felt would probably be typical for the subject property (30-35%) and the amount of indirect costs MVS includes in their base costs (10-15%). It was also informed by his experience appraising new and proposed construction projects, his review of construction budgets, and his discussions with owners, developers, and contractors. Although Hall regularly included upward adjustments for entrepreneurial incentive (profit), he opted to exclude it from this appraisal because most properties of the subject's type and size are not built on a speculative basis; they are constructed for occupancy by an owner-user. He also excluded it because the Board and the Tax Court have generally not adopted values for big box properties that include it. Hall's decision to include a 10% adjustment for indirect costs and exclude entrepreneurial profit is a departure from his treatment of both issues in his 2014 Appraisal. In that appraisal, he only applied a 3% adjustment for indirect costs, and he included 10% for entrepreneurial profit. Hall's estimates of direct and indirect costs for the building improvements ultimately produced an estimated total building cost of $10,945,459. *Tr. at 558-562, 758, 761, 764-765, 769-773; Ex. R-1 at 124-127; Ex. P-23 at 105.*

67. Hall also used MVS to arrive at a cost new for the site improvements. He counted the number of parking spaces and estimated the size of the parking areas using aerial photographs, and he did a physical trace using GIS or Google Maps to calculate the square footage of the concrete paving. And based on his inspection, he assigned the parking lot and concrete paving overall quality ratings of "good" and "average," respectively. However, in Hall's 2014 Appraisal, he classified the quality of the subject property's parking lot as "low cost." After applying current and local multipliers and adding in indirect costs of 10%, Hall estimated a total site improvement cost of $1,638,806. Taken together with his estimate of total building cost, Hall arrived at a total RCN for the subject property's improvements of $12,584,265 before depreciation. *Tr. at 564-565, 774-775; Ex. R-1 at 124, 127-128; Ex. P-23 at 105.*

68. To estimate depreciation due to physical deterioration for both the building and the entrance canopy, Hall used the economic age-life method. According to Hall, this method results in a lump sum estimate for all sources of depreciation, including the loss in value from physical deterioration, functional obsolescence, and/or external obsolescence. Based on his inspection of the subject property, he determined that the building and the entrance canopy both had an effective age of 17 years, which is consistent with their actual age. For his estimation of economic life, he considered the life expectancies of three of the comparable sales from his sales comparison approach, the analytic survey data from his market segmentation analysis, and discussions with owners, developers, and buyers and sellers. Hall ultimately selected an estimated economic life of 35 years for both the building and the entrance canopy, which mirrors MVS's estimate of the typical life span for a Class C Warehouse Discount Store of good quality. Dividing the building's and the entrance canopy's effective age (17) by their projected lifespan of 35 years produced a total depreciation estimate of 48.6% after adjusting for the percentage of the RCN each contributed. Hall used the age-life method to calculate depreciation for the site improvements as well. He estimated that the parking lots and the concrete paving were at the midpoint of their useful lives. After adjusting for their contribution to the RCN, Hall concluded the site improvements had 50% depreciation, which is the same level of depreciation he applied to the site improvements in his 2014 Appraisal. However, he saw no evidence that the parking lot had any new resurfacing at the time of his inspection on June 16, 2023. Combined, Hall's estimates of depreciation for the building and site improvements produced total depreciation of $6,135,769. *Tr. at 565-570, 576-577, 781-784, 787-788; Ex. R-1 at 128-132, 136; Ex. P-23 at 107.*

69. Hall did not observe any items of deferred maintenance during his inspection that needed to be accounted for, and the representative from Target did not report any. He also concluded that no external or locational obsolescence was impacting the subject property because market demand was strengthening, and its neighborhood had a mix of supporting

and complementary land uses. In two prior appraisals of Target stores in Hamilton County, however, Hall specifically concluded that the growth in e-commerce caused external obsolescence, leading to store closures and smaller buildings that allow for flexible configurations. Hall found that the subject property had minor functional obsolescence due to super-adequacies related to the masonry pergola structures and the presence of separate retail areas for the grocery, pharmacy, and coffee shop/snack bar, which are not a market requirement for a big box retail property. However, he excluded them from the valuation analysis because his cost approach relies on estimates of replacement cost rather than reproduction cost. *Tr. at 566-567, 571-575, 820-823; Ex. R-1 at 128, 133-135; Ex. P-24 at 39-40, 42; Ex. P-28 at 39-40, 42.*

70. Subtracting Hall's estimate of total depreciation from his estimate of subject property's RCN resulted in a depreciated replacement cost of $6,450,000 (rounded). Combining his land value conclusion with the depreciated replacement cost for the building and site improvements produced an indicated property value of $8,510,000. To ensure that his cost approach (which presumes the property is occupied) was consistent with his sales comparison approach (which presumes that the subject property is vacant), Hall adjusted for leasing commissions. He based the adjustment on the subject property's potential gross rent over a 10-year lease term and a market commission rate of 3.90%. Hall then halved his commission estimate due to the 50/50 probability that the buyer would either be an owner-user or an investor, resulting in a leasing commission adjustment of $170,461. Deducting his leasing commission adjustment from the indicated property value produced an overall value conclusion of $8,300,000 (rounded) as of January 1, 2022. *Tr. at 577-580; Ex. R-1 at 136-138.*

c. Hall's Sales Comparison Approach

71. Hall started his sales comparison analyses by searching the public records to try and find any fee simple transactions within the past 10 years for the eight big box retail properties from Clark County that he identified in his Market Segmentation Analysis as competing directly with the subject property. However, he did not find any such sales, leaving him

with no comparable sales from Clark County to rely on. Hall therefore expanded his geographic search to include freestanding retail properties with more than 80,000 SF anywhere in Indiana that sold between 2015 and 2022. That search produced 84 transactions, but after eliminating properties he felt were not comparable to the subject property he was left with only one remaining transaction—a former Sam's Club in Indianapolis. *Tr. at 591-594; Ex. R-1 at 139-141.*

72. Due to the severely limited availability of comparable sales, he expanded his search area to the Midwestern U.S and beyond. He identified four additional sales to include in his analysis. They were already in the IRR database from other assignments, but Hall did not know what assignments they were originally used for. He also did not visit or inspect any of the additional comparable sales he selected, and he has never appraised a big box property in any of their markets. Hall felt that the two sales from outside of the Midwestern region were relevant because they: 1) had formerly been occupied by big box retailers, 2) were acquired for owner-occupancy by another big box retailer, 3) are located in metropolitan areas, and 4) he had adequate data to adjust for differences in location. But he did not evaluate the strength of their retail markets or submarkets by researching market rents, sales prices, or capitalization rates within a five-mile radius around any of them. *Tr. at 597-598, 719-721, 723, 867-868, 875, 878; Ex. R-1 at 142.*

73. The five sales Hall selected are summarized as follows:

- Sale 1 (Rochester, MN) - a 90,432 SF big box retail property built in 1982 on a 9.41-acre site purchased by a developer in August 2021 for occupancy by At Home.
- Sale 2 (Indianapolis, IN) - a 136,403 SF freestanding retail property built in 1992 on an 18.51-acre site purchased in December 2018 for $61.58/SF for occupancy by At Home.
- Sale 3 (Madison, WI) - a 119,440 SF freestanding retail property built in 1987 on a 12.18-acre site purchased in October 2018 for $82.05/SF for use by At Home. It transferred subject to a deed restriction that prohibited some uses, but the buyer and some other big box retailers were identified as permissible users.
- Sale 4 (Virginia Beach, VA) - a 153,007 SF big box retail property built in 1983 on a 11.67-acre site purchased in July 2016 for $58.82/SF for redevelopment as a

Walmart.

- Sale 5 (Denver, CO) a 120,448 SF freestanding retail property built in 2009 on a 12.42-acre site purchased in May 2015 for $75.55/SF for owner-occupancy by Costco.

Tr. at 598-603; Ex. R-1 at 143-146; Ex. R-2 at 46-55.

74. Hall acknowledged that Sales 2 and 3 were part of a portfolio sale. He also admitted that if he had known that he would not have relied on them or placed any weight on them in his sales comparison approach. However, Hall did not believe his concluded value would be different if he excluded them because he felt his remaining three sales bracketed his opinion of value both before and after adjustment. *Tr. at 898, 922, 925-926 Ex. R-1 at 143-144.*

75. Hall considered adjustments for expenditures made after purchase, property rights, financing terms, conditions of sale, market conditions, location, access/exposure, size, physical characteristics, and age/condition:

- Expenditures made after purchase – Sale 1 had an original purchase price of $4,600,000, but the parties agreed to a reduced purchase price of $4,390,000 after the buyer completed due diligence. After adding $786,185 back to the sales price to account for expenditures the buyer budgeted for curing deferred maintenance on the roof and HVAC system, Hall determined it was sold for an effective sale price of $5,176,185 ($57.24/SF). *Tr. at 603, 605-608; Ex. R-1 at 143, 148-149.*
- Property rights – Hall concluded no adjustments were necessary because all five sales transferred a fee simple interest, which is consistent with the property rights he was appraising. However, he failed to address the fact that Sale 3 transferred subject to a deed restriction, which he asserted limits the pool of potential buyers and can impact the sale price. *Tr. at 608, 713-714; Ex. R-1 at 149.*
- Financing terms – Hall concluded no adjustments were necessary. *Ex. R-1 at 149.*
- Conditions of sale – The seller of Sale 1 was experiencing financial distress and

may have been atypically motivated. While that may have impacted the sale price, Hall had insufficient data to quantify the impact (if any). Sales 2 and 3 are former Sam's Club stores that were closed as part of the retailer's long-term strategic objectives. Because the closures were not prompted by bankruptcy or foreclosure proceedings and sales revenue remained relatively stable, Hall concluded no atypical motivations impacted the sale. *Tr. at 608-610; Ex. R-1 at 149-150.*

- Market conditions – Hall applied market conditions adjustments to all five of his comparable sales because his analysis of sales price trends in the subject property's primary trade area and in Indiana showed that average market sales prices had been increasing. Based on those trends, he concluded to an average compound annual growth rate of 3%, resulting in market conditions adjustments of 1% to 20%. *Tr. at 610-612; Ex. R-1 at 150-152.*
- Location – Hall considered qualitative adjustments for household incomes, population density, population growth, and supporting and complimentary uses for each comparable sale. For each factor, he rated his comparable sales as superior (downward adjustment), similar (no adjustment), or inferior (upward adjustment). Hall's adjustments for household income were limited to differences of more than $40,000 because "differences in household income do not tend to correlate strongly with differences in property values or prices." But he had no market data to support that threshold. The $40,000 threshold resulted in Sales 1, 4, and 5, which had average household incomes more than $37,000 higher than the subject property, being rated as equal to the subject property. After compiling his qualitative adjustments (with each (+) resulting in a 5% upward adjustment and each (-) resulting in a 5% downward adjustment) Hall applied location adjustments of +5%, -10%, -15%, +10% and -5% to Sales 1-5, respectively. *Tr. at 612-622, 964; Ex. R-1 at 148, 153-156.*
- Access/exposure – In appraisal reports Hall prepared in 2018 for a SuperTarget in Fishers and a Target in Westfield, he considered traffic counts as one of four factors used to determine his adjustments for location because they impacted

"location appeal and sales prices, particularly for retail properties." Here, Hall made qualitative adjustments for 1) traffic count and proximity to arterial road or highway, 2) visibility and orientation, and 3) accessibility. When evaluating traffic count and proximity to arterial road or highway, he placed no weight to traffic count data because "for retail big box properties, a strong correlation between traffic volume and sale price is not always evident." For support, Hall cited to "click-and-collect" consumers making purchase decisions prior to driving, GPS diminishing the need for retail store visibility, national chains having loyal customers, and traffic count data not always being available for all streets that provide access. He concluded that no access/exposure adjustment was necessary for Sale 4 given its good entrance access and excellent arterial proximity. He rated Sales 1, 2 and 5 as inferior to the subject property due to their average visibility and interior sites and applied +5%, +10%, and +5% adjustments respectively. And Sale 3 received a -5% adjustment because Hall viewed it as superior to the subject property due to its excellent interstate access. *Tr. at 622-626, 997-998, 1000-1001; Ex. R-1 at 156-157; Ex. P-24 at cover letter, 135; Ex. P-28 at cover letter, 136.*

- Size – Although small differences in square footage do not have a large impact on price, Hall made a -5% size adjustment to Sale 1 because there is some correlation when the differences are greater than 30,000 SF. *Tr. at 626-627; Ex. R-1 at 158.*
- Physical characteristics – Hall concluded no adjustments were necessary because the sales have similar construction characteristics and overall utility relative to the subject property. *Tr. at 627; Ex. R-1 at 158.*
- Age/condition - Hall concluded Sales 1-4 had effective ages of 25 years and Sale 5 had an effective age of 6 years. He applied adjustments of 1% for each year of difference between their effective ages and the subject property's effective age of 17 years, resulting in adjustments of +8% for Sales 1-4 and -11% for Sale 5. *Tr. at 627-629; Ex. R-1 at 159.*

76. After adjustment, his comparable sales had prices ranging from $65.33/SF to $80.69/SF,

and an average price of $75.69/SF. In addition to his adjustment grid, Hall also looked at the price range of his unadjusted comparable sales, which he noted bracket the subject property in terms of building size, site size, year built, and floor area ratio. Prior to adjustment, Hall's comparable sales had prices ranging from $57.24/SF to $82.05/SF, and an average price of $67.05/SF. Hall concluded to a unit value of $70.00/SF, resulting in an indicated value of $8,740,000 (rounded) as of January 1, 2022. *Tr. at 630, 639-641; Ex. R-1 at 160-162.*

d. Hall's Income Capitalization Approach

77. Hall completed an income capitalization approach using the direct capitalization method. To estimate market rent, he completed three searches for comparable rent transactions. His search of big box retail properties in Clark County yielded no relevant transactions among the local competitors because most are owner-occupied. He then searched for leases of retail spaces with 80,000+ SF in Indiana that commenced between 2013 and 2022. Hall identified three transactions, but he concluded that they were not suitable because the first lease was for a property smaller than a typical big box store, the second lease was part of a sale/leaseback transaction, and the third lease may have been affected by the owner's financial circumstances. *Tr. at 642-646; Ex. R-1 at 164-166.*

78. Hall ultimately selected six regional leases that otherwise met his search criteria:

- Lease 1 (Rochester, MN) - a March 2022 NNN lease of 90,432 SF to At Home for a 120-month term at a rental rate of $7.50/SF.
- Lease 2 (Madison, WI) – an October 2019 NNN lease of 94,105 SF to At Home for a 120-month term at a rental rate of $6.95/SF. The tenant completed $4 million in renovations and is responsible for repairs/maintenance to the roof, HVAC, and parking lot.
- Lease 3 (Farragut, TN) – an April 2018 NNN lease of 81,202 SF to At Home for a 300-month term at a rental rate of $8.97/SF during the first 10 years with four step-ups and an option for three additional 5-year renewals. Rent during the first 10 years is lower to account for tenant buildout and an addition.
- Lease 4 (Wauwatosa, WI) – an October 2015 NNN lease of 100,801 SF to At Home for a 60-month term at a rental rate of $5.35/SF. The tenant paid

approximately $2.5 million for renovations, repairs, and remodeling expenses, which including a new façade, roof, HVAC, electrical upgrades, interior finishes, and parking lot resurfacing.

- Lease 5 (Rotterdam, NY) – a February 2015 NNN lease of 115,660 SF to BJ's Wholesale Club for a 144-month term at $8.13/SF.
- Lease 6 (Cincinnati, OH) – a June 2014 NNN lease of 79,300 SF to Floor & Décor for a 120-month term at a rate of $5.50/SF. The property is physically attached to an adjacent Home Depot. The owner paid for a demising wall and to split the mechanicals, while the tenant paid for all remodeling and repairs.

Tr. at 646-650; Ex. R-1 at 167-171; R-2 at 57-68.

79. Before adjustment, Hall's six comparable leases had rental rates ranging from $5.35/SF to $8.97/SF. He did not research or analyze the market rents, capitalization rates, market vacancy, or sales prices for any of the six leases he selected, and nothing in his appraisal indicates whether or not they are representative of rents in their respective markets. Hall adjusted them for differences in expense structure, conditions of lease, market conditions, location, access/exposure, size, and age/condition. As part of his location adjustment analysis, he limited his adjustments for household income to differences of more than $40,000, but he had no market data to support that threshold. The adjusted leases had rental rates ranging from $6.83/SF to $8.53/SF, and an average rental rate of $7.62/SF. Hall gave Lease 5 less weight given the difficultly in quantifying a conditions of lease adjustment to account for the atypical motivations of the tenant and landlord. And because it was at the high end of the range, he concluded to an indicated rental rate lower than the average of his six comparable leases. As a test of reasonableness, Hall also did a comparative analysis of the unadjusted leases. They had an average rent of $6.88/SF, which he noted is very similar to his concluded market rental rate of $7.00/SF. *Tr. at 650-665, 870, 962-965, 1025-1026, 1055; Ex. R-1 at 172-183.*

80. Multiplying Hall's concluded market rental rate of $7.00/SF by the subject property's total square footage produced a potential gross rent estimate of $874,160. Because the subject property and comparable leases all share the same NNN expense structure, he projected no expense reimbursements. Hall applied a 10% deduction for vacancy and

collection loss after considering market vacancy trends reported by CoStar, typical investor assumptions, and future turnover risk due to changing market conditions. He also deducted 2.65% for management expenses, which was the average fee for the national net lease market as of Q1 2022. Based on an investor survey from Q1 2022, Hall concluded no deduction for replacement reserves was necessary because most investors in the national net lease market do not use reserves. Nevertheless, he acknowledged that replacement reserves are one of the two expense categories that landlords typically incur for properties like the subject. Hall also admitted that he made deductions for replacement reserves in the appraisal reports he prepared in 2018 for the SuperTarget in Fishers and the Target in Westfield. Applying the expense deductions to Hall's potential gross rent estimate produced an estimated NOI of $765,895. *Tr. at 665-671, 1069-1070, 1072-1074; Ex. R-1 at 184-187. Ex. P-24 at cover letter, 160; Ex. P-28 at cover letter, 161.*

81. To select an appropriate capitalization rate, Hall relied on CoStar analytic surveys, investor surveys, comparable sales, and the band of investment method. CoStar surveys of capitalization rate trends for retail in the 5-mile radius around the subject property and for single tenant, freestanding retail in Indiana with 80,000-225,000SF reported market capitalization rates of 7.77% and 8.32%, respectively, as of January 2022. An investor survey by the SRS National Net Lease Group reported an average cap rate for big box/superstore properties of 6.18% as of Q3 2021. And two surveys by The Boulder Group, (big box/large format, and big box with remaining lease terms of less than 5 years) reported capitalization rates of 6.75% and 7.50%, respectively, as of Q4 2021. Additionally, Hall considered the 7.12% capitalization rate from a comparable sale in Kennewick, WA. To minimize the impact of the strength and credit quality of the tenants, he also analyzed the capitalization rates of seven sales of big box properties with short remaining lease terms. They had capitalization rates ranging from 7.66% to 8.27%, and an average rate of 8.03%. Finally, Hall derived a capitalization rate using the band of investment method. His analysis relied on market data from RealtyRates.com for freestanding retail and produced a cap rate of 8.34%. The average capitalization rate

from all the sources he reviewed was 7.50%. But because Hall was not sure if current trends in the big box retail market would continue, he ultimately concluded to slightly higher indicated capitalization rate of 8.25%. *Tr. at 671-675, 1163; Ex. R-1 at 188-193.*

82. Although Hall has loaded capitalization rates for certain property types, he did not load his capitalization rate in this appraisal because none of the capitalization rates in the offering memorandums for big box retail properties that he reviewed had any sort of a load. He also explained that cap rates inherently account for the risk of owner expenses during periods of vacancy. Although he did neither, Hall agreed that when appraising property for property tax purposes, any property taxes the owner is responsible for must be accounted for in the appraisal, and that the two ways to account for property taxes an owner might be responsible for during a period of vacancy are 1) making an expense deduction when calculating NOI, or 2) loading the capitalization rate. *Tr. at 675, 1099-1100, 1163; Ex. R-1 at 188-193.*

83. To arrive at a value conclusion under the income approach, Hall capitalized his NOI estimate of $765,895 by his 8.25% capitalization rate, producing an indicated value of $9,283,579. Although Hall acknowledged that within the income approach, the presumption is that the property will be leased, he applied the same $170,461 adjustment for leasing commissions that he developed in the cost approach, resulting in a stabilized value indication for the subject property of $9,110,000 (rounded) as of January 1, 2022. *Tr. at 675-676, 1104; Ex. R-1 at 194-195.*

e. Hall's Reconciliation

84. Hall gave the greatest weight to the cost approach because he had good local comparable land sales, a good source for replacement cost information in MVS, and good market data to support his estimates of additional indirect costs and economic life. Although Hall felt that the sales comparison approach provided a useful test of reasonableness, he only gave it secondary weight because of the limited number of recent sales of substitute properties in Indiana. He also noted that some of his adjustments were difficult to quantify with

supporting market data. Hall concluded that the income capitalization approach should be given secondary weight for similar reasons. While he felt that the market data underlying his estimates of income, expenses, and capitalization rates was reliable, there was limited rental data available for substitute properties and he had difficulty quantifying adjustments for some of his comparable leases. Based on his analysis, Hall ultimately reconciled to a final value conclusion for the subject property's retrospective market value-in-use of $8,600,000 as of January 1, 2022. *Tr. at 681-684; Ex. R-1 at 196-197.*

CONCLUSIONS OF LAW

A. BURDEN OF PROOF

85. Generally, the taxpayer has the burden of proof when challenging a property tax assessment. Accordingly, the assessment on appeal, "as last determined by an assessing official or the county board," will be presumed to equal "the property's true tax value." I.C. §6-1.1-15-20(a) (effective March 21, 2022).

86. However, the burden of proof shifts if the property's assessment "increased more than five percent (5%) over the property's assessment for the prior tax year." I.C. §6-1.1-15-20(b). Subject to certain exceptions, the assessment "is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof." *Id.*

87. If the burden has shifted, and "the totality of the evidence presented to the Indiana Board is insufficient to determine the property's true tax value," then the "property's prior year assessment is presumed to be equal to the property's true tax value." I.C. § 6-1.1-15-20(f).

88. Here, the 2022 assessment of $6,156,600 was not an increase of more than 5% over the

previous year's assessment of $5,913,300.[9] Target therefore has the burden of proof.

B. VALUATION STANDARD

89. In Indiana, assessments are based on a property's "true tax value." True tax value does not mean fair market value. I.C. § 6-1.1-3l-6(c). Nor does it mean the value of the property to the user. I.C. § 6-1.1-31-6(e). Subject to these somewhat tautological directives, the legislature relies on the Indiana Department of Local Government Finance ("DLGF") to define true tax value. I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as: "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2. The Manual offers further guidance, defining "market value-in-use," "value in use," and "use value," as being synonymous. MANUAL at 6-8. But it also states that a property's true tax value will equal its value-in-exchange when properties are frequently exchanged and used for the same purposes by the buyer and seller. MANUAL at 2. Thus, true tax value is something other than purely market value or value-in-use. Given the mandates from the Indiana Supreme Court and the legislature, the DLGF created a valuation standard that relies heavily on what it terms as objectively verifiable data from the market, but that still maintains the notion of property wealth gained through utility and therefore recognizes situations where true tax value will differ from market value. Utility is a concept based on economics rather than a term of art of appraisal theory. It refers to "the ability of a product to satisfy a human want, need, or desire. *Dictionary of Real Estate Appraisal, 6th Ed., pg. 242.*

90. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its charge is to "weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence before it." I.C. § 6-1.1-15-20(f). The

[9] Assigning the burden for 2022 would normally depend on our determination for the previous year's appeal. Given the parties' stipulation, however, we are only determining a value for 2022 and applying their agreed trending formula to resolve the 2021 appeal. Because the parties' formula dictates that the 2021 assessment is 3% less than our determination for 2022, the 2022 assessment cannot increase by more than 5% over the 2021 assessment as a result of our determination.

Board's conclusion of a property's true tax value "may be higher or lower than the assessment or the value proposed by a party or witness." *Id.* Regardless of which party has the initial burden of proof, either party "may present evidence of the true tax value of the property, seeking to decrease or increase the assessment." I.C. § 6-1.1-15-20(e).

91. To meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (*citing Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal "methodology" of the "assessment regulations." *P/A Builders & Developers, LLC v. Jennings Cty. Ass'r*, 842 N.E.2d 899, 900, (Ind. Tax Ct. 2006). This is because the "formalistic application" of the procedures and schedules from the DLGF's assessment guidelines lacks the market-based evidence necessary to establish a specific property's market value-in-use. *Piotrowski*, 177 N.E.3d at 133.

92. Market-based evidence may include "sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles." *Peters v. Garoffolo*, 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that "another property is 'similar' or 'comparable' simply because it is on the same street are nothing more than conclusions…[and] do not constitute probative evidence." *Marinov v. Tippecanoe Cty. Ass'r*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably indicate the property's value as of the valuation date. *O'Donnell v. Dept. of Local Gov't. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For the 2022 assessment, the valuation date was January 1, 2022. Ind. Code § 6-1.1-2-1.5.

93. These well-worn guideposts from the Tax Court as to determining true tax value may be in flux. As recently announced in *Majestic Props., LLC v. Tippecanoe Cnty. Assessor, 2024 Ind. Tax LEXIS 37,* applying the "regulation" requires an analysis of the "utility received" by the owner. It may be too broad to define a use as simply residential, as a

landlord and a homeowner might derive a different utility. Applied here, defining the use as "retail" may be too broad, and a first-generation owner derives much more utility than purchasers on the secondary market. But until a more decisive precedent is issued by the Tax Court, we will hew closely to the well-established body of law in valuing big box stores.

C. VALUATION EVIDENCE

1. Allen's Appraisal

94. Allen relied on generally accepted appraisal methods and objectively verifiable market data to value the subject property's fee simple interest as of January 1, 2022. Although there are issues with his sales comparison and cost approaches, we conclude that Allen's income capitalization approach with one adjustment provides reliable evidence of the subject property's market value-in-use.

a. Allen's Sales Comparison Approach

95. We start our review with Allen's sales comparison approach. The Assessor primarily argued that several of Allen's comparable sales were dissimilar to the subject property either because they were converted to multi-tenant uses or non-retail uses, or because they did not meet Allen's definition of a big box store. We largely agree.

96. We have consistently found that the conversion of a property into multi-tenant use calls into question its continued viability for use as a big box store. Thus, Allen's decision to rely on Sales 5 and 7 is problematic. When discussing Sale 5, Allen explained its sale price was in the mid-range of all his sales data and that excluding it would not have changed his conclusions. But that does little to diminish our concern that he selected an inappropriate sale to begin with. Additionally, as the Assessor correctly pointed out, two of Allen's primary sales (Sales 1 and 4) and two of his additional sales (Additional Sales 3 and 5) do not fit within Allen's own definition of a big box store (80,000+SF). Thus, we question whether those properties truly compete in the same market segment as the

subject property.

97. Next, while Allen claimed that Sales 4 and 6 were put to retail use after sale, we agree with the Assessor that both properties were converted to non-retail uses. We are also troubled by the inclusion of Sales 4 and 6 because Allen acknowledged he did not use three of the seven additional sales (Additional Sales 1, 2, and 4) as primary sales specifically because they were sold for non-retail uses for which the buyers were willing to pay a higher price than retailers. Nevertheless, we note that our concern regarding Sale 4 is lessened to some extent because Allen considered it an outlier in terms of the market, and he noted that excluding it from his analysis would result in an average price of about $1.00/SF less than his concluded value.

98. The Assessor also took issue with many of Allen's adjustments, which he asserted led Allen to grossly undervalue the subject property. We find no merit to the Assessor's criticisms regarding the lack of adjustments for conditions of sale or land to building ratios. Nor are we particularly troubled by the size of Allen's age/condition and retail submarket adjustments. We also think Allen offered sufficient support for his adjustments for arterial and demographic attributes, and we reject the Assessor's bare assertion that properties requiring significant adjustment are not truly comparable to the subject property.

99. That said, we agree that Allen's adjustments for deed restrictions are dubious. Four of his primary sales (Sales 1, 2, 5, and 7) sold with deed restrictions that impair their future use as retail properties for periods ranging from 4 to 50 years. Despite the fact that each of these sales is subject to varying levels of restrictions and term lengths, and contrary to his conclusion that none of the deed restrictions actually affected the properties' purchase prices, Allen inexplicably applied the same 5% adjustment to all four sales.

100. While it is a minor point, we also agree with the Assessor's criticism that Allen should have made a size adjustment to Sale 7. As the Assessor emphasized, Allen applied size

adjustments to comparable sales that were significantly smaller than the subject property (Sale 1 at 65,006 SF and Sale 4 at 65,732 SF), but he failed to adjust Sale 7, which is significantly larger. That runs counter to the data Allen relied on from Situs RERC indicating that properties with 100,000 to 130,000 SF sell for premiums of 23.5% over properties in excess of 130,000 SF. It also indicates Allen disregarded his own matched-pair analysis showing that Sale 7, which originally sold as a 186,783 SF store and later resold as a 78,434 SF store, sold at a 16.8% discount per square foot when it sold as a larger property.

101. Lastly, we agree that Allen erred by not applying a market conditions adjustment to any of his seven primary comparable sales for 2020. Allen cited the Covid-19 pandemic as his justification for not making any adjustments, but as the Assessor observed, Allen concluded that retail property values were generally increasing from 2017 through 2021 based on his own analysis of market trends. Thus, we conclude he should have applied an adjustment.

102. Allen's Comparable Sales 1, 4, 5, 6, and 7 were converted to multi-tenant or non-retail uses or failed to meet his own definition of a big box store. Thus, they cannot establish a value for a big box store. Allen also made questionable adjustments for deed restrictions and failed to make several adjustments that his data appeared to support. We therefore conclude that his sales comparison approach is not a credible indicator of the subject property's market value-in-use.

b. Allen's Income Capitalization Approach

103. As with the sales comparison approach, most of the Assessor's criticisms of Allen's income capitalization approach stem from his selection of comparable leases and the adjustments he applied to them to account for differences.

104. The Assessor criticized Allen's selection of comparable leases because he included two properties that were leased for use as family entertainment centers (Leases 14 and 16).

The Assessor also complained that two of Allen's comparable leases are not big box stores (Leases 16 and 18). We agree that Allen's decision to rely on leases for non-retail uses and leases from non-big box stores diminishes the reliability of his analysis because both characteristics make it more likely that they compete in different market segments than the subject property. That is particularly true with respect to Lease 16, which is neither a big box property nor a lease of property for retail use. We are also bothered by the fact that Lease 13 was the only comparable lease Allen selected that is even located in Indiana. However, we do find leases from closer metro markets in Cincinnati and Lexington to be on point.

105. We now turn to the Assessor's criticisms of Allen's adjustments. The Assessor faulted Allen for allegedly failing to support his conditions of sale adjustment to Lease 18. Allen adjusted Lease 18 downward by $2.80/SF because it was a gross lease instead of a NNN lease, meaning that the landlord pays the taxes, insurance, and CAM without reimbursement from the tenant. The Assessor offered the offering memorandum for the lease, which shows that the property's 2021 real estate taxes, CAM, and insurance expenses totaled $2.21/SF, and questioned the size of Allen's conditions of sale-adjustment. However, we credit Allen's explanation that he used the 2022 real estate taxes to calculate his adjustment instead of the 2021 taxes, a decision we find appropriate given that he was valuing the subject property for the 2022 assessment year.

106. We do find some merit in the Assessor's criticism of Allen's age/condition adjustments. The Assessor complained that Allen's 0.5% annual adjustment rate was half the rate he applied for his age/condition adjustments in the sales comparison approach, and that the rate he applied to Leases 16, 17, and 18 was even smaller. While we do not agree that Allen needed to apply the same rate of adjustment within both valuation approaches or to each of his comparable leases, we do find his failure to meaningfully discuss the adjustments or to offer any details about the market data used to develop them problematic. The Assessor also claimed that Allen provided no information about the condition of the properties at the time of lease. While that may be true, we note that

Allen did provide information on their respective ages. More importantly, he physically inspected six of the seven properties, providing him with personal knowledge from which to make informed decisions regarding all but one of the properties' conditions at the time they were leased. The fact that Allen did not explicitly describe their conditions at the time of lease is therefore of significantly less concern to us than the other issues the Assessor identified with his age/condition adjustments.

107. The Assessor also raised several concerns about Allen's decisions with respect to his capitalization rate. The Assessor faulted Allen for his decision to solely rely on survey data to select a capitalization rate. However, that ignores the fact that Allen also developed a band-of-investment analysis. We also note that Hall relied heavily on survey data to develop his capitalization rate as well. Furthermore, the Assessor pointed to no authority requiring appraisers to develop their own market-derived cap rates from sales, and we are aware of none. The Assessor also complained that Allen concluded to a capitalization rate of 8.5% even though the average rate from all his sources was 7.35%. The Assessor claimed Allen's explanation for concluding to a higher rate—that the retail market in Indiana is considered riskier than the average of the surveyed properties—was conclusory. However, we note that the average capitalization rate from all of Hall's sources was 7.50% and yet he concluded to a capitalization rate of 8.25% "to account for additional risks involving the subject." *Ass'rs Post-Hearing Brief at 42*. The fact that both appraisers felt the need to conclude to capitalization rates higher than their respective data suggested due to added risk largely undermines the Assessor's argument. And given that the two appraisers concluded to rates only 0.25% apart, we are ultimately unpersuaded that Allen's reliance on survey data led him astray, or that his opinion of the subject property's risk profile was erroneous.

108. The next concern the Assessor raised was Allen's decision to load his overall capitalization rate to account for property taxes that the owner would pay during periods of vacancy. As evidence that Allen erred by loading his capitalization rate, the Assessor pointed to testimony from both appraisers about offering memorandums for big box retail

properties that did not market them with a loaded rate. While Allen admitted that the market does not typically use tax-loaded cap rates, he explained that appraisers do for property tax situations. And Hall agreed that when appraising property for property tax purposes, any property taxes the owner is responsible for must be accounted for in the appraisal. More importantly, Hall acknowledged that one of the two acceptable ways to account for property taxes an owner might be responsible for during a period of vacancy is to load the capitalization rate. Thus, we conclude Allen's decision to load his capitalization rate was appropriate.

109. Finally, the Assessor asserted that Allen incorrectly deducted for tenant improvement allowances because he had no proof that landlords provide them. The Assessor also criticized the lack of support for Allen's use of a $5/SF allowance and an estimated lease up period of 12 months. While we think Allen provided enough support for his 12-month lease up period, the only evidence Allen pointed to in support of making the deduction at all was the fact that one of his comparable leases (Lease 15) received a $4.61/SF tenant improvement allowance. We are simply not persuaded that a single example from the market is sufficient to support any deduction for tenant improvement allowances, let alone a $622,400 deduction. Nor do we think that it is a strong enough market indicator to support the $5/SF allowance he used to estimate it. We reject Allen's tenant improvement allowance deduction.

110. Allen's decision to rely on two leases for non-retail uses and two leases from non-big box stores diminished the reliability of his market rent analysis, and his large deduction for tenant improvement allowances is unsupported. However, we ultimately conclude Allen's income approach, absent his tenant improvement allowance, produced a credible opinion of the subject property's market value-in-use.

c. Allen's Cost Approach

111. The Assessor made several criticisms related to Allen's decisions about the correct MVS property classification and site improvement costs. However, given the overlap between

MVS's property classifications, the similarities in many of the appraisers' other inputs, and the small spread between their respective total RCN estimates before depreciation, we think Allen was on solid ground. And we note that the Assessor did not raise any concerns about Allen's land value estimate. Instead, the Assessor primarily focused on attacking his obsolescence adjustment. Accordingly, we will as well.

112. Indiana defines obsolescence as:

> A diminishing of a property's desirability and usefulness brought about by either functional inadequacies or super-adequacies inherent in the property itself, or adverse economic factors external to the property.

2021 Real Property Manual, Glossary at 23. Functional obsolescence is "obsolescence caused by factors inherent in the property itself. The impairment of the functional capacity of improvements according to market tastes and standards." *Id. at 15.* Economic obsolescence (or external obsolescence) is "(1) a cause of deprecation that is a loss in value as a result of impairment in utility and desirability to the market caused by factors outside the property's boundaries. (2) Loss in value of a property (relative to the cost of replacing it with a property of equal utility) that stems from factors external to the property." *Id. at 12.*

113. To determine whether the subject property was affected by functional or external obsolescence, Allen reviewed market trends for big box retail properties from 2015 through 2022, data on the size of Target stores opened between 2010 and 2021, big box development trends in Indiana, and trends in e-commerce sales during the 5–7-year period before January 1, 2022. He concluded that these trends created obsolescence by reducing demand and lowering prices for big box retail stores like the subject property. While we agree with the Assessor that there is still market demand for buildings like the subject property, we find that Allen's data provides some support for the existence of external obsolescence caused by e-commerce. Allen also credibly explained that big box stores like the subject property, which was specifically built to suit Target, suffer from functional obsolescence because they are never built on a speculative basis and because

buyers typically modify the buildings by changing physical characteristics to adapt them to their retailing needs. Hall likewise concluded that the subject property suffered from minor functional obsolescence due to super-adequacies related to the masonry pergola structures and the presence of separate retail areas for the grocery, pharmacy, and coffee shop/snack bar. We therefore agree that Allen generally supported the existence of obsolescence.

114. Nevertheless, we are not convinced that Allen's quantification of obsolescence led to a particularly reliable valuation under the cost approach. He used the capitalization of deficient income method and the market extraction method, which Hall agreed are generally accepted appraisal techniques for quantifying obsolescence. But both of Allen's methods derive obsolescence using data from his other valuation approaches: the capitalization of deficient income method uses his NOI and capitalization rate data from the income approach, while the market extraction method uses his concluded value from the sales comparison approach. Allen's conclusion under the cost approach is therefore not an independent indicator of value.

115. After considering the problems we identified with his sales comparison and income approaches above, along with the sheer size of his obsolescence adjustment ($3,474,525 or 28% of RCN), we conclude—as Allen did— that the cost approach is the least reliable of his three valuation approaches, and not probative of the subject property's market value-in-use.

116. While Allen analyzed the subject property's value using all three generally accepted valuation approaches, we find his income capitalization approach to be the strongest of his valuation approaches. And after correcting for Allen's use of the wrong square footage and adding back his unsupported deduction for tenant improvement allowances, we conclude it is the most persuasive valuation evidence before us.

2. Hall's Appraisal

117. We now turn to Hall's appraisal. Like Allen, Hall relied on generally accepted appraisal methods to value the subject property's fee simple interest as of January 1, 2022. While Hall's appraisal also provides reliable evidence of the subject property's market value-in-use, the evidence underlying his opinion makes it less persuasive than Allen's appraisal.

a. Hall's Cost Approach

118. Target claims that Hall's cost approach is not credible. It criticized Hall for his opinions of the subject property's construction quality and the quality of its parking lot because they differed from the opinions he reached in a prior appraisal of the same property. Target also faulted Hall for making unsupported adjustments for indirect costs. Finally, it argued that Hall's failure to make a deduction for obsolescence meant that his cost approach does not reflect the subject property's market value-in-use. We find these arguments persuasive.

119. Hall developed his RCN estimate for the 2022 valuation date using the base cost MVS reported for a Class C Warehouse Discount Store of "good" quality. As Target pointed out, however, Hall classified the quality of its improvements as "average/good" in his 2014 Appraisal. Similarly, Hall assigned the parking lot an overall quality rating of "good," in his current appraisal despite the fact that he classified the quality of the subject property's parking lot as "low cost" in his 2014 Appraisal. We agree with Target that Hall's decision to change his opinion of these components' construction quality to a more favorable rating required more explanation given that he was valuing the exact same improvements. Indeed, Hall admitted that the subject property has had no major investments or renovations since it was built in 2005, and he saw no evidence that the parking lot had been resurfaced at the time of his inspection in 2023. We also find merit in Target's related criticism of Hall's decision to apply the same 50% depreciation factor to his estimate of the parking lot's value in 2022 that he applied in his 2014 Appraisal even though the parking lot was nearly eight years older on the 2022 valuation date.

120. Target also effectively criticized the 10% adjustment Hall applied for indirect costs. Target relied on Hall's 2014 Appraisal, in which he only applied a 3% adjustment for indirect costs, to support of its claim that Hall arbitrarily increased his adjustment in this appraisal. While we take no issue with Hall's decision to apply a different adjustment per se, he failed to convince us that the blog posts from Billd and Buildxact are reliable sources of market data on indirect costs for big box properties. Hall admitted that neither company identified the specific projects or budgets used to develop their wide-ranging estimates of indirect costs, and that they are little more than aggregated sources of information unrelated to big box properties. Furthermore, he failed to sufficiently explain how his experience appraising new and proposed construction projects, his review of construction budgets, or his discussions with owners, developers, and contractors independently support his 10% adjustment for indirect costs.

121. Target mainly used these issues to highlight the large increase in Hall's RCN estimate caused by his shifting opinions. However, as we discussed when addressing the Assessor's criticism of Allen's RCN estimate, we are not overly troubled by Hall's RCN estimate given the small spread between the appraisers' respective estimates. What concerns us are Hall's inconsistent decisions, which we conclude negatively affect his overall credibility.

122. Finally, Target also faulted Hall for not making an obsolescence adjustment. Hall concluded that no external or locational obsolescence was impacting the subject property because market demand was strengthening, and its neighborhood had a mix of supporting and complementary land uses. We agree that Hall's data shows a strong local market. We therefore take no issue with his conclusion that the subject property was not impacted by locational obsolescence. However, as previously discussed, Allen established the existence of some external obsolescence caused by e-commerce. And we note that Hall has previous found e-commerce to be a source of external obsolescence for other Target stores in Indiana. Thus, we conclude Hall needed to account for external obsolescence in

some way.

123. Hall also concluded that the subject property was impacted by functional obsolescence due to several super-adequacies that he acknowledged are not required by the market for big box retail properties. He attempted to get around the issue by excluding the super-adequacies from his valuation analysis. While that may be a credible workaround for the masonry pergola structures, Hall has failed to convince us that is true with respect to the separate retail areas since there is no indication that he excluded their collective square footage when developing his RCN estimate. And as discussed above, we credit Allen's explanation that one of the main reasons big box stores like the subject property suffer from functional obsolescence is because buyers typically modify the buildings to adapt them to their own needs. In this case, that could conceivably involve reconfiguring or removing the subject property's grocery, pharmacy, and coffee shop/snack bar areas. We therefore conclude that Hall needed to account for functional obsolescence as well.

124. We are unconvinced that Hall's age/life method in which he judged the subject property's effective age to be the same as its actual age fully captured any functional or external obsolescence. Because the age/life method was the only method Hall used to try and quantify the impact external and functional obsolescence had on the subject property, we conclude he failed to properly account for either form of depreciation.

125. The cost approach was Hall's primary valuation approach, but it contained a number of inconsistent and unsupported decisions, his adjustment for indirect costs lacked supporting market data, and he failed to properly account for external and functional obsolescence. Given those issues, we conclude that his cost approach is not a credible indicator of the subject property's market value-in-use.

b. Hall's Sales Comparison Approach

126. Target asserts that Hall's sales comparison approach fails to provide probative evidence of the subject property's market value-in-use for several reasons. First, it argues that

Hall's failure to perform competent research led him to select sales from distant, dissimilar markets. Next, Target points to Hall's admission that two of his five sales are unreliable as casting doubt on the credibility of his sales comparison approach. It also attacks the comparability of the remaining three sales and the adjustments Hall applied to them to account for differences.

127. We agree that Hall's search for comparable sales led him to select sales from far-flung locations in markets he was largely unfamiliar with, but that was also true of Allen. Although Hall searched for comparable sales in Clark County and within Indiana, his search only produced one sale that he included in his analysis—Sale 2—a sale that he ultimately admitted was not reliable because it was part of a portfolio sale. After expanding his search area beyond Indiana and the Midwestern region, Hall selected four additional sales that were already in the IRR database from appraisal assignments he was not involved with. We agree that Hall could have done more research to ensure he selected a reliable group of comparable sales.

128. Sale 1, a big box property located in Rochester, Minnesota sold to a developer in August 2021. While the property is in the Midwest, Hall added $786,185 to its purchase price in an attempt to account for expenditures after sale that the buyer budgeted to cure deferred maintenance without demonstrating that it was an amount anticipated by both the buyer and seller at the time of purchase. Target argues there is no indication that *the buyer's budget* is a reflection of costs *both parties* anticipated, and there was only a $210,000 difference between the original purchase price and the reduced purchase price the parties ultimately agreed to after the buyer completed due diligence and discovered that the roof and HVAC system needed to be replaced. Target does not challenge the expenditures or the condition of the property, and Target can only speculate as to what the buyer thought.

129. As he did with Sale 2, Hall ultimately admitted that he would place no weight on Sale 3 after acknowledging that it was part of a portfolio sale. Thus, we conclude that Hall's reliance on Sales 2 and 3 severely diminishes the reliability of his sales comparison

approach. Hall argued that his concluded value would not have changed if he had excluded Sales 2 and 3 because his remaining three sales bracketed his opinion of value. Without those sales, the evidence supporting Hall's sales comparison approach is substantially diminished.

130. Hall felt that his sales from Virginia Beach, Virginia (Sale 4) and Denver, Colorado (Sale 5) were relevant because they: 1) had formerly been occupied by big box retailers, 2) were acquired for owner-occupancy by another big box retailer, 3) are located in metropolitan areas, and 4) he had adequate data to adjust for differences in location. While we take no issue with Hall expanding his search beyond the Midwest, we are not convinced that the location adjustments Hall applied to them (+10% and -5%, respectively) properly accounted for the differences between their locations and the subject property's location in Clarksville, Indiana. As Target noted, Hall lacked market support for one of the few factors he did consider—household incomes. Hall limited his qualitative adjustments for household income to differences of more than $40,000, but he admitted that he had no market data to support that threshold. As a result of his decision to use the arbitrary $40,000 threshold, Hall rated Sales 4 and 5 as equal to the subject property despite the fact that both of them have average household incomes more than $37,000 higher than the subject property.

131. We also find merit in Target's criticism of Hall's market conditions adjustments. As Target stressed, he relied exclusively on data from the subject property's primary retail trade area, Indiana freestanding retail data, and national asking cap rate data. Thus, Hall developed the adjustments that he applied to Sales 1, 4, and 5 without ever evaluating the relative strengths and weaknesses of their respective economic environments in relation to the subject property's market. And given that Hall is largely unfamiliar with their markets to begin with, we agree that his market conditions adjustments are not overly reliable.

132. Target's final criticism of Hall's sales comparison approach focused on his

access/exposure adjustments. Specifically, Target faulted Hall for listing, but not placing any weight on, traffic counts when developing his qualitative adjustments for access/exposure. What concerns us, however, is not so much his failure to explicitly adjust for differences in traffic counts, but the fact that Hall's decision is inconsistent with his prior appraisals of other Target stores. We are simply not convinced that the four reasons Hall gave for ignoring traffic counts in this case—"click-and-collect," GPS systems, loyal customers, and unavailable traffic count data for all streets that provide access—support a departure from his prior emphasis on how important traffic counts are for retail properties. While we think it a minor point overall, Hall's wavering positions on the issue do little to instill confidence in the reliability of his access/exposure adjustments.

133. Hall ultimately admitted that two of his five sales were unreliable, leaving him with one sale from the Midwest and two sales from distant markets that he failed to fully evaluate. We therefore conclude that Hall's sales comparison approach is not a credible indicator of the subject property's market value-in-use.

c. Hall's Income Capitalization Approach

134. Target criticized Hall's selection of comparable leases because he drew them from markets without ever establishing that those markets were comparable to the subject property's market. Target also asserted that Hall failed to properly account for replacement reserves and real estate taxes, and that his capitalization rate was artificially low. Lastly, Target challenged Hall's decision to reduce his leasing commission expense by 50%.

135. We start by dismissing Target's claim that Hall's capitalization rate was artificially low. As discussed in our review of Allen's income approach, the small spread between their respective capitalization rates leads us to conclude that they both selected reasonable rates. That said, it does appear that Hall failed to properly account for real estate taxes an owner might be responsible for during periods of vacancy by either loading his overall

capitalization rate as Allen did or including real estate taxes as an expense deduction when calculating NOI. He both agreed that those are the two acceptable ways to account for property taxes and admitted that he did neither.

136. Turning to Hall's selection of comparable leases, we note that none of his leases are from Indiana, and only one is from a state that is even contiguous to Indiana. That aside, Hall's failure to research and analyze the market rents, capitalization rates, market vacancy, and sales prices for any of the leases he selected leaves us questioning whether their markets are comparable to subject property's market. And we think the fact that Hall researched those factors for the subject property as part of his market segmentation analysis further drives home their importance. While Hall's demographic analysis undoubtedly addressed some relevant factors, Hall admittedly lacked market support for the $40,000 threshold he used to evaluate household incomes in his location adjustment analysis. More troubling, Hall also admitted that nothing in his appraisal indicates whether or not his comparable leases are representative of rents in their respective markets. We conclude that these issues impair the reliability of his income approach.

137. We also agree that Hall failed to properly account for replacement reserves. He concluded no deduction for replacement reserves was necessary because most investors in the national net lease market do not use reserves. However, we are not convinced that a single investor survey that covered an unknown variety of property types holds up in the face of Hall's admissions that 1) replacement reserves are one of the two expense categories that landlords typically incur for properties like the subject, and 2) he previously made deductions for replacement reserves when appraising other Target stores. And like the other instances we have highlighted, we conclude Hall's inconsistent treatment of replacement reserves diminishes his overall credibility.

138. Finally, Target challenged Hall's decision to reduce his leasing commission expense by 50%, arguing that he had no support for doing so. We agree. Hall halved his commission estimate due to the 50/50 probability that the buyer would either be an

owner-user or an investor. But as Target points out, he admitted that, within the income approach, the presumption is that the property *will be leased.* So, the fact that an owner-user may be the buyer is of no moment. Relatedly, we also agree that Hall should have deducted for holding costs to account for the expenses a landlord would anticipate incurring during the lease up period as Allen did.

139. Hall's inadequate research into the markets of the leases he selected leaves us doubting their comparability to the subject property's market. He also failed to properly account for replacement reserves, real estate taxes, and holding costs, and he arbitrarily reduced his deduction for leasing commissions by 50%. We conclude that these issues significantly diminish the credibility of his income capitalization approach.

140. Like Allen, Hall analyzed the subject property's value using all three generally accepted valuation approaches, and we find Hall's income capitalization approach to be the strongest of his valuation approaches as well. However, the issues we have identified with Hall's appraisal ultimately lead us to conclude that it is less persuasive than Allen's.

D. CONCLUSION

141. Because Allen's income capitalization approach provides reliable evidence of the subject property's market value-in-use, we conclude it is sufficient to make a prima facie case. We therefore turn to weighing the evidence to determine whether Hall's appraisal is strong enough to rebut it. As already discussed, both appraisers analyzed the subject property's value using all three generally accepted valuation approaches. While there are significant issues with each of their respective sales comparison and cost approaches, Allen's deeper experience and more thorough investigation into the underlying data, along with the overall strength of his income capitalization approach, leads us to find his appraisal more credible than Hall's overall. And after weighing the evidence, we ultimately conclude that Allen's income capitalization approach, after correcting for his use of the wrong square footage and adding back his unsupported deduction for tenant

improvement allowances[10], is the most persuasive evidence of the subject property's true tax value for the 2022 assessment year.

FINAL DETERMINATION

We find for Target and order the assessments changed as follows in accordance with these findings and the Parties' trending agreement:

Valuation Date	Total Assessment
January 1, 2020	$5,366,300
January 1, 2021	$5,479,200
January 1, 2022	$5,648,700

[10] Using the correct square footage produced an estimated tenant improvement allowance of $624,400 and an indicated value of $5,024,253. Adding back the tenant improvement allowance results in an indicated value $5,648,700 (rounded) as of January 1, 2022.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.