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

REPRESENTATIVES FOR RESPONDENT:
Marilyn S. Meighen, Brian A. Cusimano, Zachary D. Price, Attorneys at Law

BEFORE THE INDIANA BOARD OF TAX REVIEW

KOHL'S INDIANA, LP,	)	Petition Nos.: 48-003-19-1-4-00291-20
	)	48-003-20-1-4-00045-21
Petitioner,	)	48-003-21-1-4-00250-22
	)	
v.	)	Parcel No.: 48-12-29-300-007.000-003
	)	
MADISON COUNTY ASSESSOR,	)	County: Madison
	)	
Respondent.	)	Assessment Years: 2019, 2020, 2021

February 19, 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:

I. INTRODUCTION

1. Kohl's Indiana, LP appealed the assessments of its big box retail store located in Anderson, Indiana. The parties offered competing valuation opinions from their respective MAI appraisers—Lawrence Allen for Kohl's and David Hall[1] for the Madison County Assessor. Both appraisals have some probative value, but they also suffer from

[1] Although an additional appraiser, Michael Lady, also signed the appraisals offered by the Assessor, Hall was the only one who testified. For simplicity, we will refer to the appraisal as Hall's.

problems that significantly detract from their reliability. After weighing the evidence, we find Allen's appraisal to be the most compelling valuation evidence presented to us and conclude it supports a reduction to the assessments at issue.

II. PROCEDURAL HISTORY

2. Kohl's filed Form 130 notices contesting its 2019, 2020, and 2021 assessments on June 4, 2019, June, 2, 2020, and June 1, 2021, respectively. The Madison County Assessor and the Madison County Property Tax Assessment Board of Appeals ("PTABOA") determined the following assessments[2]:

Year	Land	Improvements	Total
2019	$601,700	$3,911,700	$4,513,400
2020	$840,300	$3,676,700	$4,517,000
2021	$840,300	$3,676,700	$4,517,000

3. Kohl's timely filed Form 131 petitions for all three years. On August 17, 2022, the Board adopted the parties' Appeal Management Plan, in which they agreed to limit the scope of the hearing to the determination of the property's market value-in-use as of January 1, 2020 and January 1, 2021, and stipulated to the use of a trending formula to determine the 2019 assessment[3].

4. Beginning on February 20, 2023, our designated administrative law judge, Jacob Robinson ("ALJ"), held a five-day hearing on Kohl's petitions. Neither he nor the Board inspected the property. Appraisers Lawrence Allen and David Hall testified under oath.

[2] The PTABOA issued Form 115 determinations for 2019 and 2020. However, Kohl's elected to appeal the 2021 assessment 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] 2019 AV = 2020 AV (as finally determined) x 0.98

5. Kohl's submitted the following exhibits:

Exhibit No.	Description
P-1	Appraisal Report prepared by Allen & Associates for 2020 and 2021 (CONFIDENTIAL, Pages 88-89)
P-2	Situs RERC PowerPoint, "Big Box Valuation Realities"
P-3(A)	Allen Work file (Excerpt, Bates #221-593)
P-4	CoStar News Article dated May 6, 2021
P-5	Distance Measurements of Sales Data
P-7	Walmart Correspondence
P-15(A)	Special Warranty Deed, recorded December 20, 2018
P-17(B)	("Exhibit 6") Deferred Maintenance Report (CONFIDENTIAL)
P-18	Property Record Card for 8850 S. Emerson Ave., Indianapolis, IN
P-19	BS&A Online Information for 879 Mall Dr., Portage, MI
P-20	yahoo!finance Article from Hall Work file, dated August 26, 2021
P-21	Aerial Photo of Hall Sale 2
P-22	Property Record Card for 3015 W. 86th St., Indianapolis, IN

6. The Assessor submitted the following exhibits:

Exhibit No.	Description
R-A	Appraisal Report prepared by Integra Realty Resources for 2020
R-B	Appraisal Report prepared by Integra Realty Resources for 2021
R-C	Appraisal Addenda
R-H	Special Warranty Deed, recorded October 18, 2018
R-K	Special Warranty Deed, recorded September 25, 2017
R-L	CoStar Information for 8850 S. Emerson Ave., Indianapolis, IN
R-N	CoStar Information for 879 Mall Dr., Portage, MI

R-O	Auction Brochure for Lowe's, 6221 U.S. Hwy. 6, Portage, IN
R-P	Grant Deed for Portage Lowe's, recorded June 18, 2019
R-Q	CBRE Marketing Package for 7301 Maplecrest Rd., Fort Wayne, IN
R-R	Rezoning Petition Application for 7301 Maplecrest Rd., Fort Wayne, IN
R-T	CBRE Marketing Package for 53 St. & Scatterfield Rd., Anderson, IN
R-U	CBRE Information for At Home, 2101 South Telegraph, Bloomfield Hills, MI
R-V	SRS National Net Lease Group Marketing Brochure for Big R, 3101 Northview Dr., Elkhart, IN
R-W	Signature Associates Information for Former Value City, 28582 Dequindre Rd., Warren, MI
R-X	CBRE Information for Shelby Township Floor & Décor Lease
R-Y	RealtyRates Retail 1Q 2020
R-AA	CBRE U.S. Retail Cap Rate Survey, Second Half 2019 (coversheet, pgs. 2, 16, 25, 26 only)

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

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. THE SUBJECT PROPERTY

8. The subject property is located at 4544 S. Scatterfield Road, Anderson, Indiana. It consists of a retail store and site improvements situated on 7.89 acres of land in a retail shopping complex known as Southtown Center. The subject property has reciprocal easement agreements with Southtown Center, allowing access to the property from both S. Scatterfield Road and Charles Street. Because the subject property is set back from Scatterfield Road, its visibility is somewhat impaired by some of Southtown Center's

[4] The transcript is bound in two volumes, but the pages are numbered consecutively from 1 to 939. We will cite to the transcript, without reference to the volume, using the following format: Tr. at (page number).

outlots. Scatterfield Road is the main commercial artery in the area. Around 21,000 vehicles use it to pass by the subject property each day. *Ex. P-1 at 1, 24, 25, 27-32; Ex. R-A at 5; Ex. R-B at 5; Tr. at 31-35.*

9. The building is a Class C – average quality discount store that was built to Kohl's specifications in 1998. It has approximately 86,843 SF of ground floor area with 20' ceilings and a 6,441 SF mezzanine storage area with 27' ceilings. The building has a poured concrete foundation, decorative face brick and EIFS over concrete block walls, a flat roof of built-up composition with stone over steel deck and trusses, three loading docks with load levelers, and two entryway canopy areas. It has an open floorplan with offices, restrooms, employee areas, and storage areas in the back. Floor coverings include ceramic tile and carpeting in the sales area, ceramic tile in the restrooms, and exposed concrete floors in the storage areas. The sales floor and office areas have painted sheetrock walls and suspended acoustic ceilings, while the storage areas have unpainted sheetrock and exposed ceilings. The lighting throughout the building is primarily recessed fluorescent lighting fixtures. It has roof-mounted heating and cooling units, plumbing, electrical service, and a wet sprinkler system. Site improvements include an asphalt parking lot, interior drives, sidewalks, curbing, pole lights, and landscaping. Most of the components of the building, including the roof and HVAC units are original, as is the parking lot. *Ex. P-1 at 27-49; Ex. P-17(B); Exs. R-A & R-B at 5; Tr. at 32, 36-39.*

B. Expert Opinions

1. Allen's Appraisal

10. Kohl's offered an appraisal report from Lawrence Allen. Allen has a bachelor's degree from Linfield College and an MBA from the University of Michigan. Allen is President and chief appraiser at Allen & Associates, which he founded in 1991. He 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 Chartered

Financial Analyst Institute. Allen is a certified general real estate appraiser in Indiana and a licensed real estate broker in Michigan. He has presented lectures on the valuation of real property to the graduate business programs at the University of Michigan and Michigan State University. Allen has also published articles in the Appraisal Journal relating to real property valuation. *Ex. P-1 at 124-125; Tr. at 14-17.*

11. During his career, Allen has appraised a wide variety of properties including commercial, industrial, apartments, mobile home parks, shopping malls, and strip shopping centers. His prior appraisal work in Indiana has included the valuation of a wide variety of retail properties, including big-box stores, for purposes of property tax valuation disputes. Allen considers buildings larger than 80,000 SF to be big box stores. Over his career, he has physically inspected more than 100 big box stores used by at least twelve national retailers. And in the last five years, he has appraised over 100 big box stores and testified to the value of big box stores before a state board or tribunal around 10 times, including before the Board. Additionally, Allen has worked as a broker doing site selection work for potential development of several Walmart stores in southeast Michigan. In that role, he had conversations regarding the factors that big box retailers believe are important in a potential location for a store. *Ex. P-1 at 124-125; Tr. at 17-23.*

12. Allen performed a physical inspection of the subject property in May of 2022. His inspection included the public areas and nonpublic areas such as the roof, mechanical and electrical rooms, and the shipping and receiving area. Based on his inspection and because the roof, parking lot, and HVAC are at the end of their normal life, Allen concluded that the building and site improvements needed capital investment and were in below average condition as of the dates of value. *Ex. P-1 at 28, 32-33; Tr. at 32, 37-39, 213-216; 227-228.*

13. The subject property is located in the Indianapolis-Carmel-Anderson Metropolitan Statistical Area ("Indianapolis MSA"). Allen researched various economic indicators for the Indianapolis MSA, the state of Indiana, and the United States. Allen considered the

most pertinent economic indicators to big box market participants to be population, projected growth, household income, and average consumer spending. Although the Indianapolis MSA is a desirable area with good projected population growth, the populations of Madison County and the city of Anderson are projected to decline. And compared to the Indianapolis MSA, Madison County also has less economic growth with a lower median household income and lower average consumer spending. Allen considered the subject property's neighborhood, which he defined as the area within a half-mile radius, to be in the stabilized stage of its lifecycle. It supports a variety of land uses and has an established transportation network providing good access to major highways. However, the neighborhood has seen limited new development and there is not a lot of growth potential in the near future. It also has below average median household incomes compared to the Indianapolis MSA and Indiana. *Ex. P-1 at 11-14, 20-21, 26; Tr. at 42-48.*

14. Allen valued the subject property based on its current use without regard for its highest and best use. However, after investigating the market, he concluded that the subject property's current use and highest and best use are both retail because the improvements are not so specialized that they could not be used by another retail user, and they are of a type that is commonly exchanged in the market. He therefore valued the subject property based on its current use reflecting the utility of the property to the owner or similar user of the property. In terms of functional utility, Allen considered the building to be best suited to a single tenant/user due to its size, store depth, and interior layout. However, because there is more demand for smaller stores, investors who buy large-format stores like the subject property will often divide them into multi-tenant spaces. *Ex. P-1 at 33, 51; Tr. at 60-62.*

15. Allen valued the subject property's fee simple interest. When a buyer purchases a fee simple interest, he acquires both the right of ownership and the right of immediate possession. Thus, when valuing a property's fee simple interest, it should be valued as though it is vacant and available for lease. According to Allen, this principle is generally

accepted in the appraisal community. All things being equal, investors in the big box property market would prefer to buy leased properties because they already have existing income streams while buyers of vacant properties need to find tenants and get leases in place before the properties can start producing income. *Tr. at 62-63.*

16. Allen considered and ultimately used all three valuation approaches: the sales comparison approach, the income capitalization approach, and the cost approach. While the numbers are different, he used the same approaches to develop his opinions of value for both the 2020 and 2021 assessment dates. Allen found the sales comparison and income approaches to be the most applicable approaches. He concluded that the cost approach was less reliable because of the substantial accrued depreciation due to the subject property's physical age and because obsolescence is difficult, if not impossible, to estimate without extracting it from the other valuation approaches. Allen also thinks that buyers and sellers of big box properties do not generally buy and sell based on the cost approach. Allen determined the market value-in-use of the subject property's fee simple interest as of January 1, 2020, and January 1, 2021, and certified that his appraisal complies with Standard 1 and Standard 2 of the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Ex. P-1 at 9, 52; Tr. at 27-28, 63-64.*

a. Allen's Sales Comparison Approach

17. For his sales comparison approach, Allen researched sales of comparable big box retail properties. Because he was valuing the subject property's fee simple interest, he limited his search to fee simple sales. The problem with using properties that sell with a lease in place (a leased fee sale) is that it is difficult to adjust them to account for whether the lease is above or below market and to account for differences in lease terms such as the length of the lease and rent step ups. Allen did not limit his search to properties in Anderson or in Indiana because the market for big box stores is much broader, but in an ideal world all the comparable sales would be from Anderson. There is also a benefit to having comparable sales from Indiana because sales in other states have different debt structures and different economics. *Ex. P-1 at 53-54; Tr. at 65, 67-70.*

18. Allen identified eight comparable sales with five from Indiana and three from Michigan, all of which he physically inspected. Six of the sales are big box stores and two are a little smaller than the big box stores. All eight sales were single-occupant retail properties at the time of sale. Each of the sales also transferred a fee simple interest in the properties to the buyers. Although Allen claimed that they were all used for retail purposes both before and after sale, he admitted that only three of his eight comparable sales were put to use as big box stores after sale (Sales 1, 3, 7), while two of the properties were put to no use (Sales 2 and 6), two were demised for multi-tenant use (Sales 4 and 8), and one was used for self-storage (Sale 5). They sold for unadjusted prices ranging from $18/SF to $40/SF, which Allen considered a tight range of values. *Ex. P-1 at 55-72; Tr. at 68-72, 231-234.*

19. The eight comparable sales Allen relied on are summarized as follows:

Sale Details	Subject	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5	Sale 6	Sale 7	Sale 8
Development	Kohl's	Kroger	Walmart	Menards	Lowe's	Big Kmart	Marsh	Super Walmart	Target
Location	Anderson, IN	Indianapolis, IN	Hammond, IN	Portage, MI	Portage, IN	Byron Twp., MI	Ft.Wayne, IN	Hartland Twp., MI	Anderson, IN
Sale Date		Sep-17	Nov-17	Mar-18	Jun-19	Jun-19	Nov-18	Jan-21	Jun-16
Building Area (SF)	93,284	65,006	145,554	81,569	133,841	115,440	65,732	78,434	103,096
Year Built	1998	2000	2000	1988	2003	1993	2003	2009	1967/1980
Land Size	7.89	6.01	11.27	12.76	12.39	10.47	10.94	10.92	9.45
LTB Ratio	3.68	4.03	3.37	6.81	4.03	3.95	7.25	6.06	3.99
Rights Conveyed	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Sale Price		$2,600,000	$2,600,000	$2,800,000	$3,823,000	$3,125,000	$1,700,000	$2,425,000	$2,750,000

Ex. P-1 at 55-72; Tr. at 71-103.

20. Allen considered adjustments to the comparable sales for expenditures after sale, property rights, financing terms, conditions of sale, market conditions, size/configuration, arterial attributes, demographic attributes, retail submarket, surplus land, and age/condition:

- Expenditures after sale - Allen concluded no adjustments were necessary for any of his eight 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. For Sales 1, 2, 5, 6, and 7, he was also able to verify with either the broker or seller that there were no post-sale expenditures made by the buyers that were anticipated by both parties and that affected the sales price. *Ex. P-1 at 73; Tr. at 74-75, 77-78, 80-81, 86, 89, 92, 94, 103.*
- Property rights – Sales 1, 2, 4, and 7 sold with deed restrictions, limiting some future retail use of the properties for periods ranging from 4 to 50 years. Sale 7 has a 25-year deed restriction from a prior sale in 2016 that specifically prohibits the use of the property for a discount department store or discount store containing more than 50,000 SF of space. After speaking with the brokers and grantors that participated in the transactions, Allen concluded that none of the deed restrictions affected their purchase prices. Nevertheless, two national big box studies that Allen reviewed indicate 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, 4, and 7. *Ex. P-1 at 69, 73-74, 82-83; Tr. at 75, 78-79, 82, 86-87, 89, 92, 94-95, 103, 115-116, 272.*
- 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 74, 82-83; Tr. at 116.*
- Market conditions – Economic data from Real Capital Analytics indicated that pricing of retail property sales was increasing from 1% to 2% through 2019 and then dropping in 2020. And value trends reported by CoStar for the comparable sales' markets indicated that retail property values were increasing from 2017 to 2020. From this data, Allen concluded to an annual market conditions adjustment of 2% from year-end 2015 through year-end 2017, and a 3% adjustment for 2018 and 2019. Due to the Covid-19 pandemic's effect on retail sales and retail activity, Allen applied

a 0% adjustment for 2020. Applying his conclusions (rounded to the nearest 1%) to each of his comparable sales through the dates of value resulted in market condition adjustments of 7% for Sale 1, 6% for Sale 2, 5% for Sale 3, 2% for Sales 4 and 5, 3% for Sale 6, 0% for Sale 7, and 9% for Sale 8. *Ex. P-1 at 74-78, 82-83; Tr. at 117-119.*

- Size/Configuration – After studying the relationship between building sizes and sales prices per square foot in the market, Allen found little price difference for buildings larger than 80,000 SF. Thus, he did not consider size adjustments necessary for Sales 3, 5, 7, or 8, which are all close to the subject's size. But for buildings smaller than 80,000 SF, there is a stronger market and higher prices. Allen therefore adjusted Sales 1 and 6, which are both about 65,000 SF, downward by 10%. He also applied a 5% upward adjustment for Sales 2 and 4, which both exceeded 130,000 SF. *Ex. P-1 at 78, 82-83; Tr. at 119-120.*
- Arterial attributes – Because arterial attributes are important to buyers of big box stores, Allen compared the access, visibility, and traffic counts for each of his comparable sales to the subject property. He concluded that Sales 1, 6, 7, and 8 are superior to the subject, while Sales 2 and 3 are inferior to the subject. He therefore adjusted Sale 1 downward by 10%, Sales 6, 7, and 8 downward by 5%, and Sales 2 and 3 upward by 5%. Because he deemed Sales 4 and 5 to be similar to the subject, they did not receive any adjustments. *Ex. P-1 at 78, 82-83; Tr. at 120-122.*
- Demographic attributes – To compare the attributes of his comparable sales to the subject, Allen considered demographic data on population density, household density, median household income, average household spending power, population change, and five-year projected population for both a five-mile and ten-mile radius. Of those demographic factors, Allen believes that spending power (a combination of average household spending and the number of households) is particularly important to market participants. He concluded that Sales 4, 7, and 8 had similar demographics to the subject and needed no adjustments. But Allen considered the remaining five sales to have superior demographics, necessitating downward adjustments of either 5% or 10%. *Ex. P-1 at 79-83; Tr. at 122-127.*

- Retail submarket – Allen analyzed the reported submarket trends for the subject property and his eight comparable sales by looking at the average retail asking rent and average retail vacancy for all retail property in a 5-mile radius surrounding each property. He concluded that except for Sale 8, his comparable sales are in superior retail submarkets. Allen therefore applied downward adjustments of between 5% and 20%. Because Sale 8 is located in the same retail submarket as the subject, he concluded it did not need an adjustment. *Ex. P-1 at 80-83; Tr. at 127-129.*
- Surplus land – Sale 3 had enough surplus land to accommodate a 27,000 SF addition to the property, which represented additional value to the buyer. Because the subject property lacks that opportunity, Allen applied a 15% downward adjustment to Sale 3. *Ex. P-1 at 81-83; Tr. at 131.*
- Age/Condition – Allen estimated the effective age of each of his comparable sales by considering their actual ages and their conditions. He then adjusted the per square foot prices of each sale by 1% per year for the difference between their effective ages and the subject's physical/effective age (which Allen concluded are equal) as of each valuation date. *Ex. P-1 at 81-83; Tr. at 129-131, 225-226.*

21. Allen examined three additional sales from Indiana. He felt they showed that there is an active market for big box properties, but he did not include them in his grid because they were not very good comparables. Nor did he use them to derive indicated values for the subject property. Allen also reviewed a national study of big box sales prepared by Brett Harrington of the International Appraisal Company. The Harrington study included 272 sales that closed between January 2011 and December 31, 2016. The 145 fee simple sales had prices ranging from $7.92/SF to $66.84/SF, with an average sales price of $28.27/SF. Additionally, Allen reviewed a study prepared by Situs RERC that 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 his primary comparable sales have adjusted sales prices within the range of prices shown by the Harrington study and within a tight range of the average and median prices for the population, building size, and year-built categories from the RERC study. This indicated to Allen that his primary sales were

within the normal range of national pricing for big box stores with more than 50,000 SF. *Ex. P-1 at 83-86; Tr. at 132-139.*

22. For 2020, Allen's comparable sales had adjusted prices ranging from $17.99/SF to $28.73/SF, and an average price of $23.59/SF. For 2021, the sales had adjusted prices ranging from $17.80/SF to $28.45/SF, and an average price of $23.35/SF. Allen considered Sale 8 to be very significant to the valuation because it was the most comparable to the subject in terms of location and submarket and because it had the smallest adjustment. But he disregarded Sales 2 and 6 because at around $18/SF they represented the two low points. Based on his analysis, Allen concluded to a value of $26/SF for the subject property's 86,843 SF of ground floor area for both 2020 and 2021. Allen then calculated the value attributable to the subject's mezzanine area. Because the mezzanine is not as functional, he valued it at 35% of the value of the ground floor, which was the difference Marshall Valuation Service ("MVS") reported for the cost of mezzanine versus ground floor space. That resulted in a value of $9.10/SF for the subject's 6,441 SF of mezzanine area for both 2020 and 2021. Adding the values of the ground floor and mezzanine area together produced an indicated value of $2,320,000 (rounded) as of both January 1, 2020, and January 1, 2021. *Ex. P-1 at 86-87; Tr. at 132, 139-141.*

b. Allen's Income Capitalization Approach

23. Allen believes that build-to-suit leases are not reliable indications of market rent because they do not reflect an open market transaction where a property is offered to the market and potential lessees can negotiate a lease. The subject property was a build-to-suit to lease for Kohl's Department Stores, Inc., and the lease was never exposed to the market. Allen therefore placed no reliance on it when developing his income approach. *Ex. P-1 at 88-89; Tr. at 143-145.*

24. To develop his income approach, Allen researched leases of comparable big box retail properties. He identified and used four comparable leases and a listing to value the

subject property (identified as Leases 11-15). Allen acknowledged that he did not review any of the leases himself, choosing instead to rely on lease summaries and offering memoranda. Two of them are located in Indiana, four are big box stores that were leased for retail use, and all five are single-occupant retail properties. They range in size from 65,000 SF to 120,000 SF. Lease 11 is a 2016 lease of a former Kmart with 120,650 SF to At Home in Bloomfield Hills, Michigan, one of the most affluent suburbs near Detroit. Lease 12 is a 2017 lease to Big R in Elkhart, Indiana. At 86,000 SF, it is about the same size as the subject property and has the most similar demographics. Lease 13 is a 2017 lease of a 101,773 SF big box property now used as an entertainment center in Warren, Michigan. It was originally part of Universal Mall but has since been "de-malled" and converted to a big box center and smaller retail. Lease 14 is a 2019 lease of a 91,500 SF building to At Home on Hall Road in Shelby Township, Michigan, which is one of the busiest roads in Michigan. Lease 15 is a 2018 listing for a former Marsh in Fort Wayne, Indiana with 65,000 SF that was listed for lease before it sold. *Ex. P-1 at 90-93; Tr. at 143, 145-148, 292-302.*

25. Before adjustment, the five comparable leases had rental rates ranging from $2.75/SF to $7.00/SF. Allen adjusted them for differences in market conditions, conditions of lease, size, arterial attributes, demographic attributes, retail submarket attributes, and age/condition. The adjusted leases had rental rates ranging from $2.53/SF to $4.22/SF, with an average rate of $3.47/SF. Allen concluded to a market rental rate of $3.50/SF on a triple-net basis ("NNN") as of January 1, 2020, for the subject property's 86,843 SF of ground floor area. And based on his review of trends in asking rents for retail property in the Indianapolis MSA, Allen concluded to the same $3.50/SF rate as of January 1, 2021. Allen reduced his market rental rate for the mezzanine area by the same 35% factor he used in the sales comparison approach since it has less utility for a retailer that the ground floor area, resulting in a rate of $1.23/SF for the 6,441 SF mezzanine for both 2020 and 2021. *Ex. P-1 at 91-93; Tr. at 148-155.*

26. Next, Allen deducted 5% for vacancy and credit loss, an allowance investors make to account for possible periods of vacancy and collection problems from tenants. The 5% factor was typical of the subject property's market and is in line with the market data for Indiana, Indianapolis, and Madison County. *Ex. P-1 at 94; Tr. at 155-158.*

27. In a NNN lease, the tenant is reimbursing the landlord for common area maintenance ("CAM") expenses, insurance, and property taxes. When a property is vacant, the landlord is not receiving those reimbursements. Allen therefore accounted for the reimbursable operating expenses that would be borne by the owner during periods of vacancy. While property taxes would normally be included as a reimbursable expense, he elected to account for them by using a tax-loaded capitalization rate. Allen estimated CAM expenses of $1.00/SF and insurance expenses of $0.25/SF for the subject property based on a study of income and expense data for Midwest shopping centers and individual examples of CAM expenses paid by other big box properties. Allen also accounted for unreimbursed operating expenses. He included a 3% management fee to cover the administrative effort and costs needed to manage the property, which is a typical management fee for a big box store. He also included an annual reserve amount of $0.25/SF for future capital improvements, which he based on a PWC survey indicating a range for reserves of $0.10/SF to $0.50/SF. *Ex. P-1 at 94-96; Tr. at 158-160.*

28. To calculate net operating income ("NOI"), Allen 1) multiplied his market rental rate of $3.50/SF by the subject property's 86,843 SF; 2) multiplied his market rental rate of $1.23/SF by the mezzanine's 6,441 SF; 3) added in CAM and insurance reimbursement income; 4) deducted for vacancy and credit loss; and 5) deducted the CAM, insurance, management fee, and replacement reserve expenses. Based on his calculations, Allen concluded to a NOI of $257,003 as of January 1, 2020, and January 1, 2021. *Ex. P-1 at 96; Tr. at 160-162.*

29. To determine an overall capitalization rate, Allen considered three basic methods: band-of-investment, investment surveys, and market-derived capitalization rates. His band-of-

investment analysis relied on survey data from Realtyrates.com for the freestanding retail category. For the first quarter of 2020, Allen's analysis indicated a range of capitalization rates from 4.57% to 14.77%, with an average of 8.83%. And for the first quarter of 2021, his analysis produced capitalization rates ranging from 4.63% to 14.19%, with an average of 7.92%. *Ex. P-1 at 97; Tr. at 162-163.*

30. The investment surveys Allen relied on included PWC RE Investor Surveys and Boulder Group Net Lease Big Box Reports for the fourth quarters in 2019 and 2020, and Realtyrates.com surveys from the first quarters of 2020 and 2021. The PWC surveys cover national power centers and net leased properties. The Boulder Group surveys include data on capitalization rates for national big box stores. And the Realtyrates.com surveys look at freestanding retail, which is the most applicable category of data to the subject property. Because NNN-leased big box stores would be marketed nationally to investors, it is appropriate to use national cap rate surveys to value a property in a specific location. In Allen's experience, cap rates in the Midwest are generally higher than the national averages because there are more risks due to the manufacturing-based economy, which is more cyclical than the east and west coast markets. *Ex. P-1 at 98; Tr. at 163-166.*

31. Finally, Allen reviewed the CBRE Cap Rate Survey for the second half of 2019. He likes the CBRE data because the survey breaks the data down into tiers. Cities like Chicago are Tier 1 markets, while Indianapolis is a Tier 3 market. CBRE further divides the data into classes of property, where Class A properties have the strongest tenants and demographics and the highest rents, Class B are average properties in the market, and Class C are below-average properties with lower rents and lower desirability. Allen considers the subject property to be a Class B property. And because his income approach is based on a stabilized property, he focused on the cap rates for stabilized properties. The range of stabilized cap rates for a Class B stabilized property in Indianapolis was 8.75% to 9.5%. Based on his analysis of all three methods, Allen

concluded to overall capitalization rates for the subject property of 8.75% as of January 1, 2020, and 8.50% as of January 1, 2021. *Ex. P-1 at 98-99; Tr. at 166-169.*

32. Allen loaded his cap rates to reflect the unreimbursed portion of property taxes the owner would be responsible for during periods of vacancy, producing loaded overall rates of 8.91296% for 2020 and 8.66251% for 2021. Dividing his NOI estimates by his loaded cap rates produced capitalized net operating income of $2,883,471 for 2020 and $2,966,838 for 2021. *Ex. P-1 at 99-100; Tr. at 160-161, 169, 173-174.*

33. Because Allen's income approach is on a fee simple basis, there is no assumption that a lease is in place. An investor buying a property that is not stabilized must bear the holding costs while he is finding a tenant and the cost of leasing commissions to get a tenant in place. Allen therefore made additional deductions for leasing commissions and holding costs. Allen elected to take a one-time deduction of $93,552, 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. For holding costs, Allen estimated that it would take nine months to find a tenant, negotiate the lease, and put the tenant in place. He therefore deducted $316,504, representing nine months' worth of lost income. Deducting the leasing commissions and holding costs from his capitalized net operating income estimates resulted in indicated values of $2,470,000 (rounded) as of January 1, 2020, and $2,560,000 (rounded) as of January 1, 2021. *Ex. P-1 at 100-102; Tr. at 169-174.*

c. Allen's Cost Approach

34. For his cost approach, Allen started by determining the value of the land. He searched for land sales of properties purchased for big box retail development in the Indianapolis MSA. Allen identified four sales that were suitable for retail use at the time of sale:

- Land Sale 1 is a 35.22-acre retail site in Fishers purchased for $251,295/acre in July 2016 for development of an Ikea store.

- Land Sale 2 is a 23.34-acre retail site in Indianapolis purchased for $219,091/acre in July 2015 for development of a Costco store.
- Land Sale 3 is an 8.18-acre retail site in Indianapolis purchased for $250,611/acre in January 2013 for development of a Walmart Neighborhood Market.
- Land Sale 4 is a 12.60-acre retail site in Noblesville purchased for $219,978/acre in June 2014 for development of a Cabela's store.

Ex. P-1 at 103-106; Tr. at 175-178.

35. Allen adjusted his four land sales for market conditions, size, arterial attributes, demographic attributes, and retail submarket. After adjustment, his sales ranged in price from $170,627/acre to $225,629/acre, with an average price of $187,648/acre. All four of the land sales were adjusted significantly downward and Allen was unable to find any vacant commercial land sales in Madison County that were comparable to the subject property. He therefore researched listings/offerings for vacant commercial land in Madison County to show that prices in Madison County were lower than his land sales from Indianapolis. Allen identified five vacant land offerings. They had offering prices ranging from $106,232/acre to $178,042/acre, and an average offering price of $136,420/acre. After considering his four land sales and the five local offerings, Allen concluded to a market value of $175,000/acre, producing a total land value of $1,380,000 for the subject property's 7.89 acres as of January 1, 2020, and January 1, 2021. *Ex. P-1 at 106-108; Tr. at 179-183.*

36. Allen looked to MVS as a source for costs and as a guide for estimating the replacement cost of the subject property's improvements. He classified the building as an average Class C discount store and selected a building cost estimate of $73.01/SF (including a $2.51/SF adjustment for sprinklers). Allen adjusted base building cost for story height and perimeter, producing an adjusted base building cost of $6,063,122 for both 2020 and 2021. He selected a building cost estimate of $22.75/SF for the mezzanine area and included a $2.51/SF adjustment for sprinklers. After adding the contributory value of the

mezzanine to the adjusted base building cost and applying the local and current cost multipliers, Allen estimated the building replacement cost to be $6,072,986 for both 2020 and 2021. However, he applied a time adjustment of 96.8693% to his estimate for 2020, resulting in a replacement cost estimate of $5,882,859 for 2020. *Ex. P-1 at 108-109; Tr. at 183-185.*

37. The subject property's site improvements include the asphalt and concrete parking, roadways, lighting, and lawn/landscaped yard areas, and Allen used MVS to estimate their replacement cost. MVS has a cost per space for parking that includes parking lot lighting and landscaping. To that, Allen added the costs for extra concrete paving, asphalt paving, and the interior roadway to get a total base cost. He adjusted the base cost using local and current multipliers, producing a replacement cost estimate for the site improvements of $1,643,746 for both 2020 and 2021. Allen then applied a time adjustment of 96.8693% to his estimate for 2020, resulting in a replacement cost estimate of $1,592,285 for 2020. *Ex. P-1 at 109-110; Tr. at 185-186.*

38. While MVS includes normal soft costs for construction such as architectural, engineering, and permitting costs, it does not include the profit needed to have a company manage the construction project. Allen estimated soft costs related to managing the construction project would be 5% of the total replacement cost for the building and site improvements. Additionally, because the cost approach produces a value indication that assumes stabilized occupancy and Allen is valuing the subject property as if it is unencumbered by a lease, he included $93,552 for the leasing commissions needed to lease the property to a tenant as an additional soft cost. Allen allocated 78.70% of the total soft costs to the building improvements, with the remaining 21.30% allocated to the site improvements. For 2020, Allen's calculations produced undepreciated replacement cost estimates of $6,250,627 for the building improvements and $1,691,827 for the site improvements. And for 2021, his calculations resulted in undepreciated replacement cost estimates of $6,450,260 for the building improvements and $1,745,861 for the site improvements. *Ex. P-1 at 110-111; Tr. at 186-187.*

39. Allen considered three elements of depreciation: physical depreciation, functional obsolescence, and external obsolescence. Physical depreciation is a loss in value due to wear and tear on the building or other improvements, functional obsolescence is a loss in value due to the layout, design or other characteristics within the boundaries of the property, and external obsolescence is a loss in value due to factors outside of the property's boundaries. *Ex. P-1 at 111-113; Tr. at 187-188.*

40. Allen used the age/life method to quantify the physical depreciation affecting the subject property. Since the property has not seen significant renovations over its life and needs a new roof and a HVAC replacement, Allen used its actual age—21 years as of January 1, 2020, and 22 years as of January 1, 2021. And based on the life expectancy MVS developed for an average quality, Class C discount store, he concluded that the building had a useful life of 35 years. This produced depreciation factors for the building of 60% for 2020 and 62.9% for 2021. Allen determined that the site improvements had a physical age of 10 years in 2020 and a physical age of 11 years in 2021. Using a useful life of 15 years, he estimated depreciation factors for the site improvements of 66.7% for 2020 and 73.3% for 2021. This resulted in total physical depreciation estimates of $4,878,261 as of January 1, 2020, and $5,334,747 as of January 1, 2021. *Ex. P-1 at 111-112; Tr. at 188-192.*

41. Based on his experience in the market, Allen concluded that the subject property suffers from both functional and external obsolescence. The reason big box stores like the subject sell for less than their physically depreciated cost is because they are large stores that are specifically designed for one particular user and buyers will typically need to make changes to adapt the space to fit their own retailing needs. Market demand for large commercial buildings like the subject is also very limited in small market areas. There is also less demand for big box stores because of e-commerce, demand for smaller stores among retailers, and an increase in bankruptcies and store closures that has created an oversupply of stores. *Ex. P-1 at 112-113; Tr. at 193-195, 197-200.*

42. Allen used two methods to quantify obsolescence: the capitalization of deficient income method and the market extracted depreciation method. The capitalization of deficient income method involves looking at the income needed to support the property's replacement cost compared to the income that the property can achieve. Allen's calculation produced a required NOI for feasibility of $830,907 for 2020 and $829,532 for 2021. From that, he subtracted the projected NOI value of $257,003 produced by his income approach to arrive at a deficient income estimates of $573,904 for 2020 and $572,530. Allen then capitalized his deficient income estimates using the overall cap rates from his income approach and subtracted out his physical depreciation estimates, resulting in total obsolescence estimates of $1,560,722 for 2020 and $1,274,536 for 2021. *Ex. P-1 at 113-114; Tr. at 195-197, 200-202.*

43. For the market extraction method, Allen compared the total improvement costs (including land) to his concluded values from the sales comparison approach to determine total depreciation. He then subtracted out his estimates of total physical depreciation for the building and site improvements from his estimates of total depreciation, producing obsolescence estimates of $2,124,192 for 2020 and $1,921,374 for 2021. After looking at the two methods, Allen concluded that the subject property had obsolescence of $1,826,764 (about 23% of the replacement cost new) as of January 1, 2020, and $1,639,224 (about 20% of the replacement cost new) as of January 1, 2021. *Ex. P-1 at 114-116; Tr. at 202-204.*

44. After determining total depreciation, Allen subtracted it from the total replacement cost of the building and site improvements. He then subtracted leasing commissions and holding costs because his cost approach looked at the property as available for lease and those costs are what a landlord or owner would incur to lease up the property. His calculations produced indicated values of $2,210,000 (rounded) as of January 1, 2020, and $2,190,000 (rounded) as of January 1, 2021. *Ex. P-1 at 117-118; Tr. at 204-205.*

d. Allen's Reconciliation

45. In his reconciliation, Allen gave the most weight to the sales comparison approach because it directly reflects the market and what buyers are paying for similar properties. Allen gave secondary consideration to the income approach, but he noted it has some deficiencies compared to the sales comparison approach: the rents are not adjusted for tenant improvement allowances; there is a lack of single-tenant leases for large retail space in Indiana and the surrounding region; and the reported capitalization rates for big box stores are based on credit tenants. Allen gave the least consideration to the cost approach because buyers and sellers of existing properties like the subject property do not consider it a reliable approach to value due to the major modifications a buyer typically needs to make to fit their specific needs. He also cited the difficultly in estimating the amount of obsolescence and depreciation. Allen ultimately reconciled to final value conclusions for the subject property's retrospective market value-in-use of $2,360,000 as of January 1, 2020, and $2,380,000 as of January 1, 2021. *Ex. P-1 at 119; Tr. at 205-208.*

2. Hall's Appraisal

46. The Assessor offered appraisal reports prepared by David Hall, Managing Director of Integra Realty Resources–Indianapolis. He has a bachelor's degree in landscape architecture from Ball State University and an MBA from Ohio State University. Hall is an Indiana Certified General Appraiser, and he holds several professional designations including the MAI from the Appraisal Institute and the AICP from the American Planning Association. Hall performs approximately a hundred appraisals per year for a wide spectrum of properties including retail, lodging, hotels, industrial, office, multi-family, and some special-use properties. Over the last four or five years, more than half of Hall's work has involved valuing property for tax purposes in Indiana. *Ex. R-C at 3; Tr. at 354, 358-360.*

47. Hall identified the subject property's location within the Indianapolis MSA as one of its strengths. According to his analytical surveys of local market data for the subject's primary retail trade area (a five-mile radius), there have been steady increases in local market rental rates and in sales prices. The subject property is adjacent to supporting and complementary retail uses in a large shopping center complex, and it benefits from the drawing power of those adjacent uses. At the time of his inspections in August and September of 2022, the subject property also appeared to be well-maintained, with good quality construction and good utility for alternative retail big box users. The parcel has several weaknesses including the parcel's lack of direct frontage along an arterial road or highway. It does have direct access to Scatterfield Road, but the parcel does not directly abut that right-of-way and it has average visibility for this type of property. According to census data, Madison County has seen a slight decline in total population recently, and it has below average median household income levels relative to Indiana. Going forward, Madison County's population is projected to increase at an annual rate of 0.2% between 2022 and 2027. Thus, Hall considered it to be fairly stable as of the effective dates of his appraisals. *Exs. R-A & R-B at 3-4, 15; Tr. at 362-364, 368-369, 404.*

48. Madison County saw steady annual growth in total employment between 2013 and 2019. There was a contraction in employment in 2020 attributable to the onset of the COVID-19 pandemic, but its impact was starting to abate as of 2021. Madison County saw some growth in GDP between 2016 and 2019, but its GDP per capita was lower than the State of Indiana. Median household income was also slightly lower in Madison County than in Indiana. As of 2022, median household income for Madison County was $58,875, which is about 8.4% lower than Indiana's overall median of $64,281. Median household income levels can explain the differences in value for some types of retail uses. However, big box discount retailers such as Walmart, Meijer, Target, and Kohl's tend to sell lower-priced merchandise, and Hall has not seen a very strong correlation between household incomes and sales prices or values for big box properties. According to Hall's analysis, some of the best performing stores are located in rural market areas with low to moderate incomes due in part to the lack of competition. Although Anderson University

is located in Madison County, the county has a slightly lower percentage of college graduates than Indiana as a whole. It also has a slightly higher median age than Indiana. Based on his analysis, Hall concluded that the prevailing economic and demographic trends were mixed between 2013 and 2019, followed by a temporary economic contraction in 2020 due to the pandemic, and a rebound in 2021. *Exs. R-A & R-B at 15-16, 18-19; Tr. at 369-375.*

49. Hall defined the subject property's primary retail trade area as a five-mile radius around it, which includes most of Anderson and some of the suburban areas to the east and south of the city. The subject's neighborhood benefits from the strong economic influence of the Harrah's Hoosier Park Racing and Casino ("Hoosier Park"), which helps stabilize the area. It also benefits from nearby highway access via an interstate interchange at Scatterfield Road and I-69. Its overall transportation infrastructure and utilities are good, but there are not a lot of vacant sites along the corridor due to build-out over time. There is a fairly dense concentration of retail development along Scatterfield Road and State Road 9, with a mix of competitive big box retail properties. Other stores include a Lowe's, a Walmart Supercenter, a Menards, and a Meijer, all of which were occupied as of the dates of value. Until it closed in 2016, there was also a big box Target store. The buyer purchased it for conversion into a multitenant shopping center with six to eight tenants and expanded the building by around 17,000 SF. Hall did not use the sale in his appraisal report because it was acquired by an adjoining property owner as part of an assemblage. *Exs. R-A & R-B at 21-23; Tr. at 375-379.*

50. Hall's market segmentation analysis involved analyzing the subject's property type, occupancy, construction quality, building characteristics, customer base, market area boundaries and characteristics, and substitute and competitive properties. The subject property's physical characteristics and occupancy history are consistent with it being a big box retail property. MVS does not have a category called big box store, but its description of a warehouse discount store closely aligns with what appraisers would typically describe as a big box retail store. The subject property is suitable to be either a

single tenant or owner-occupied property, but in terms of size, the subject falls at the low end of the local market range. It has been occupied for use as a big box retail store since construction was completed, and its design characteristics and features are typical of good quality big box retail stores and provide it with good utility. It also has access to supporting complementary properties located within Southtown Center. *Exs. R-A & R-B at 25-27; Tr. at 380-384.*

51. As part of his market segmentation analysis, Hall also analyzed the retail market in the subject property's primary retail trade area and freestanding retail properties in Indiana with at least 80,000 SF. The survey he relied on for the primary retail trade area included data on 468 retail properties, but only seven of them were big box retail stores. And the survey he used for freestanding retail properties in Indiana with at least 80,000 SF was an inventory of 318 properties, not sales, and it included data on a variety of property types including shopping malls and multi-tenant shopping centers. He looked at historical trends in market rents, vacancy rates, capitalization rates, and sales prices between 2013 and 2020. Hall found that the subject's primary retail trade area had increasing rental rates, a decline in vacancy, fluctuations in capitalization rates with compression in 2019, and increasing sales prices. Freestanding retail properties in Indiana exceeding 80,000 SF had increasing rental rates, positive rent growth, low vacancy rates, and increasing capitalization rates and sales prices. His research into national trends for big box retail showed stable capitalization rates for big box retail with a decline in rates beginning in mid to late 2019. There had been some fear in the real estate market that Amazon would push larger big box retailers out of business or that they would have to migrate entirely online. But beginning in 2018/2019 a lot of them started to use buy-online-pickup-in-store, which has helped support the demand for existing retail stores. Finally, Hall noted that he did not make any extraordinary adjustments for the impact of the COVID-19 pandemic because he was valuing the subject property as of January 1, 2020, which preceded the first reports of COVID-19 cases. *Exs. R-A & R-B at 28-38; Tr. at 384-392, 525-526, 533-534, 539, 541.*

52. Hall concluded that the subject property's current retail use was consistent with its highest and best use. He valued the subject property's fee simple interest, which encompasses all of the rights inherent in the ownership of the real estate as opposed to a leased fee where the property is encumbered by a lease and some of the rights are held by the tenant. He developed all three traditional approaches to value: the cost approach, sales comparison approach, and the income capitalization approach. Hall felt he had adequate market data to develop each approach and that each provided a credible opinion of market value-in-use. He developed an opinion of the retrospective market value-in-use for the subject property's fee simple interest as of January 1, 2020, and January 1, 2021, and certified that he prepared his appraisals in conformity with USPAP. *Exs. R-A & R-B at 6, 8, 12-14, 148-149; Tr. at 364-367, 421-422, 511-512.*

a. Hall's Cost Approach

53. Hall started his cost approach analysis by estimating the value of the subject property's land using the sales comparison approach. He searched for land sales in Madison and Delaware counties of vacant sites or redevelopment sites that were acquired for use as land with 4 to 17 acres zoned as commercial, business, or planned commercial development that sold between 2013 and 2020. Hall selected four comparable land sales:

- Land Sale 1 is a 10.30-acre parcel zoned Planned Business in Pendleton purchased for $111,618/acre in June 2019.
- Land Sale 2 is a 4.94-acre parcel in Muncie purchased for $80,972/acre in June 2017 for development of a freestanding Belle Tire retail store.
- Land Sale 3 is a 6.93-acre parcel in Anderson purchased for $233,595/acre in August 2013 for redevelopment from a vacant 157-room hotel into a car dealership.
- Land Sale 4 is a 17.04-acre parcel in Pendleton purchased for $82,164/acre in July 2013 for development of a Love's truck stop/travel center.

Exs. R-A & R-B at 82-84; Tr. at 422-424, 513.

54. Hall adjusted his four land sales for market conditions, location, access/exposure, size, and physical characteristics. Based on his analysis of sales prices and market rental rates in the subject property's primary retail trade area, Hall concluded to an average annual growth rate of 2%. He then used the 2% growth rate to determine the individual market conditions adjustments for each of his four land sales for both 2020 and 2021. For the other adjustments, Hall performed a qualitative analysis and rated the four land sales as inferior, superior, or similar to the subject property. He then applied a quantitative adjustment for differences based on his prior experience, with the same level of adjustment applied to the sales in both 2020 and 2021. For 2020, Hall's land sales had an average adjusted price of $139,872/acre. He concluded to a value of $140,000/acre, resulting in an indicated land value of $1,100,000 (rounded) as of January 1, 2020. For 2021, Hall's land sales had an average adjusted price of $142,467. He concluded to a value of $145,000/acre, resulting in an indicated land value of $1,140,000 (rounded) as of January 1, 2021. *Exs. R-A & R-B at 85-90; Tr. at 424-435, 512-513.*

55. Hall relied on MVS to estimate the replacement cost of the subject property's improvements. He used MVS's estimates of replacement cost as of January 2020 for his 2020 appraisal and MVS's estimates of replacement cost as of January 2021 for his 2021 appraisal. For the main building improvements, he selected the base unit costs MVS reported for a warehouse discount store of Class C, good quality construction. Hall adjusted the base unit costs for sprinklers and applied current, local, story height, and perimeter multipliers. For the mezzanine, Hall used MVS's costs for an average mezzanine. Hall estimated indirect costs that MVS does not include in its estimate of replacement costs to be 10% of direct costs based on his review of development and construction budgets provided by contractors. He opted to exclude entrepreneurial incentive (profit) from his replacement cost estimate based on some prior Board decisions and the fact that the subject property would be suitable for owner-occupancy. Hall also accounted for the contributory value of the site improvements including the asphalt parking lots and interior drives and the concrete paving. Collectively, his estimates

resulted in total replacement cost new values of $7,597,216 for 2020 and $8,111,196 for 2021. *Exs. R-A & R-B at 91-94; Tr. at 435-441, 513.*

56. The next step in Hall's cost approach was the development of depreciation estimates. He relied on the economic age/life method, which divides the property's effective age by its total economic life. This method provides a lump-sum estimate of all forms of depreciation including physical deterioration, functional and/or external obsolescence. Although there has been periodic maintenance to sustain the subject property's condition, it is not new and for the most part, the building is original. It has not had any major improvements or extensive renovations that would reset its effective age and the roof was nearing the end of its useful life. Hall therefore concluded that the subject's effective age was consistent with its actual ages of 21 years as of January 1, 2020, and 22 years as of January 1, 2021. He estimated the economic life for the subject to be 40 years. His estimate took into consideration MVS's reported typical lifespan and the economic lifespans of comparable properties in the local market (including the former Target). Dividing Hall's effective age estimate of 21 and 22 years by his estimated economic life of 40 years produced depreciation factors for the building and mezzanine of 52.5% for 2020 and 55% for 2021. And based on his 2022 inspections, he estimated the site improvements were in the middle years of their lifespans and applied depreciation factors of 50% for both 2020 and 2021. This produced total depreciation estimates of $3,966,173 for 2020 and $4,413,163 for 2021. *Exs. R-A & R-B at 58-59, 94-96, 98; Tr. at 416-420, 441-445, 448, 513-514.*

57. Because the building's construction characteristics, features, and size were consistent with market norms and contemporary building standards, Hall concluded that the subject property has good utility for retail use and was not impacted by functional obsolescence. Hall likewise concluded that the subject property was not impacted by locational obsolescence, which is one form of external obsolescence. He explained that the subject's neighborhood is located in the most heavily travelled corridor in Anderson with the city's largest concentrations of retail uses. The neighborhood also benefits from the

stabilizing influence and drawing power of Hoosier Park and its easy accessibility from I-69. *Exs. R-A & R-B at 57, 96-98; Tr. at 405-406, 445-449.*

58. Subtracting Hall's estimates of total depreciation from his estimates of the subject property's replacement cost new produced depreciated replacement costs of $3,631,000 (rounded) for 2020 and $3,698,000 (rounded) for 2021. He then combined his land value conclusions with the depreciated replacement costs for the improvements to derive his opinions of value for 2020 and 2021. His calculations resulted in indicated values of $4,730,000 as of January 1, 2020, and $4,840,000 as of January 1, 2021. *Exs. R-A & R-B at 98-99; Tr. at 448-449, 518-519.*

b. Hall's Sales Comparison Approach

59. Hall had a variety of other big box appraisal assignments in progress at the time, so he did not perform any additional research specific to this appraisal. He identified retail big box properties used for retail both before and after sale and focused on properties located in the Midwestern U.S. with 80,000 or more square feet that sold between 2016 and the effective dates of valuation. *Exs. R-A & R-B at 100; Tr. at 449-450, 599-600.*

60. Hall selected six comparable sales for his analysis. Although he had previously inspected Sale 3, he did not personally inspect any the properties as part of this assignment. Sale 1 is a former Shopko retail big box property built in 1982. It has 90,432 SF and is situated on 9.41 acres in Rochester, Minnesota. Shopko vacated the store in 2019 and it remained mostly vacant until it sold to a developer in August 2021 for an effective purchase price of $57.24/SF. The buyer acquired it for occupancy by At Home. The buyer and seller amended the original purchase agreement to reduce the purchase price for expenditures the buyer intended to make after sale to cure deferred maintenance (roof and HVAC replacements). Hall added the $786,185 the buyer budgeted to make those replacements to derive the effective purchase price. However, he did no additional research to confirm the status of the renovations as of the August 2021 closing date. And a news report

contained in his work file indicates that renovations were likely ongoing at the time of sale. *Exs. R-A & R-B at 101, 106; Ex. P-20; Tr. at 450-451, 458-460, 581, 627.*

61. Sale 2 is another former Shopko store that was vacant at the time of sale. The 84,000 SF building was built in 1972 on 9.96 acres in Dubuque, Iowa. It sold in November 2019 for $60.71/SF. The buyer, who owns and operates a nearby enclosed shopping mall, acquired an additional five contiguous parcels to provide the primary parcel with sufficient parking and access from multiple streets. Because they were acquired as part of the same transaction as the primary parcel, Hall did not consider it to be an assemblage. But Hall was unable to identify the property's boundaries or how the additional parcels were used prior to sale. *Exs. R-A & R-B at 101; Tr. at 451, 453-455, 632-634, 773-775.*

62. Sale 3 is a former Sam's Club that was vacant at the time of sale. The 136,403 SF building was built in 1992 on 13.989 acres in Indianapolis, Indiana. Although Hall listed the property as having 18.51 acres of land, the Special Warranty Deed from the sale confirms that it actually contains 13.989 acres. The property is part of a larger shopping center and sits adjacent to a Walmart Supercenter. It sold in December 2018 for $61.58/SF and was acquired for occupancy by At Home. *Exs. R-A & R-B at 101; Ex. P-15(A); Tr. at 452, 930-932.*

63. Sale 4 is another former Sam's Club acquired for occupancy by At Home. The 119,440 SF building was built in 1987 on 12.18 acres in Madison, Wisconsin. It sold in October 2018 for $82.05/SF. The property was transferred with a deed restriction limiting its future use by excluding a variety of retail uses such as a grocery store, a wholesale club, and a discount department store, but exempting the buyer and several other specific retailers. Because the deed restriction did not limit the buyer's intended use, Hall concluded that it did not have a significant impact on the purchase price and did not necessitate a property rights adjustment. *Exs. R-A & R-B at 102, 106; Tr. at 452, 461.*

64. Hall noted that his research did not reveal that Sales 3 and 4 were part of a portfolio transaction (i.e., marketed collectively and intended to be sold as a bundle instead of marketed for sale individually). However, Allen's research of the sales confirmed that both properties were sold as part of a bulk sale of five Sam's Club stores, and that the buyer was allowed to allocate the purchase price among the properties to fit its business needs as long as the total price was not changed. *Ex. P-7; Tr. at 103-106, 452-453.*

65. Sale 5 is a former Menards that had been vacant for approximately 15 years prior to sale. It has an 83,660 SF building built in 1987 situated on 8.02 acres in Naperville, Illinois. It sold in April 2017 for $56.78/SF. The buyer is a grocery chain that reportedly invested more than $3 million in the building for repairs and interior/exterior renovations. The buyer intended to occupy approximately 50% of the building itself and lease the remainder to other retail users. *Exs. R-A & R-B at 102; Tr. at 455-457.*

66. Sale 6 is another former Sam's Club. The 106,167 SF building was built in 1989 on 9.77 acres in Farmington Hills, Michigan. The property had been vacant since 2006 but was still leased to Sam's Club until the lease expired on April 2, 2016. The buyer acquired the fee simple interest in the property for $42.86/SF the day after the lease expired. It intended to owner-occupy 70,000 SF of the building for use as a Harley Davidson dealership, and Crunch Fitness subsequently occupied the remaining portion of the building. *Exs. R-A & R-B at 102; Tr. at 457.*

67. Hall adjusted his six comparable sales for market conditions, location, access/exposure, and age/condition:

- Market conditions – All six sales received adjustments based on an annual growth rate of 2% and the time between their dates of sale and the effective date for each appraisal. Hall based the growth rate on two analytic surveys. The first survey considered trends in cap rates, vacancy rates, and sales prices for retail property in the subject's primary retail trade area. The second survey looked at trends in cap rates,

vacancy rates, and rental rates for freestanding retail properties in Indiana with more than 80,000 SF. He also considered cap rate trends in the national market for big box retail properties. *Exs. R-A & R-B at 108-109, 119; Tr. at 471-474, 514.*

- Location – To develop his location adjustments, Hall considered indicators of potential retail demand including population, population growth, and supporting and complementary uses. He made qualitative adjustments to each comparable sale based on those factors and then made corresponding quantitative adjustments to all six sales ranging from -5% to -20%. *Exs. R-A & R-B at 109, 119; Tr. at 474-478.*
- Access/exposure – This adjustment takes into account the ability of customers to access the property. Hall performed a qualitative analysis comparing his six sales to the subject in terms of proximity to an arterial road or highway, their orientation and visibility, and the number of entrances providing accessibility to each property. He then applied quantitative adjustments of -10% to Sales 1, 2, and 5, and -20% to Sale 4. Hall made no adjustments to Sales 3 or 6 because he deemed their access/exposure characteristics to be equal to the subject. *Exs. R-A & R-B at 110, 119; Tr. at 478-479.*
- Age/Condition – Hall started with the assumption that the typical lifespan for a Class C warehouse discount store is 35 years (as reported by MVS). He then analyzed the condition of his six comparable sales, taking into account renovations and items of deferred maintenance that had been addressed to determine an effective age for each. Hall then calculated the difference between each comparable sales' effective age and the effective age of the subject and applied adjustments at a rate of 1% per year of difference in effective age. *Exs. R-A & R-B at 118-119; Tr. at 480-482, 514.*

68. After applying adjustments, the comparable sales had prices ranging from $46.52/SF to $57.99/SF, with an average price of $52.52/SF. Hall concluded to a unit value that is similar to that average at $53.00/SF. Multiplying his concluded unit value by his estimate of the subject's square footage (86,611 SF) produced an indicated value of $4,590,383 for both 2020 and 2021. *Exs. R-A & R-B at 119-120; Tr. at 483-485, 487.*

69. Hall explained that his analysis of comparable sales analyzed the subject property without the mezzanine. Because it contributes an increment of utility and value to the property, Hall included an adjustment to account for its contributory value. Since there was no market data from which to develop a sales comparison approach or an income approach, he developed the adjustment using the cost approach. Hall relied on MVS to develop an estimated replacement cost. He then added indirect costs and deducted depreciation based on the age/life method, producing an estimated contributory value for the mezzanine of $73,000 (rounded) for both 2020 and 2021. Adding the mezzanine's contributory value to the indicated value of the gross building area without the mezzanine resulted in an indicated value for the subject property of $4,660,000 (rounded) as of both January 1, 2020, and January 1, 2021. *Exs. R-A & R-B at 120-121; Tr. at 485-487, 519.*

c. Hall's Income Capitalization Approach

70. Hall also developed an income capitalization approach, which is a means of deriving an opinion of value based on a property's anticipated income characteristics. For an opinion of market value-in-use, appraisers rely on an estimate of market rent rather than the contract rent for the property. Because Hall was appraising the fee simple interest of the subject property and not the leased fee interest, he did not consider the subject's current lease. Additionally, given that the subject property's lease is a built-to-suit lease, he did not consider it indicative of market rent. The process Hall followed to select market rents was similar to the process he used to select comparable sales. Because he already had comparable rent information, he did not perform any additional research to identify new comparable leases for this assignment. He included retail big box properties used for retail both before and after leasing and focused on properties located in the Midwestern U.S. with 80,000 or more square feet. *Exs. R-A & R-B at 122-123; Tr. at 487-489, 807.*

71. Hall selected the following six comparable leases for his market rent analysis:

- Lease 1 is a 2022 lease of a former Burlington store with 82,688 SF that anchors Lakeview Plaza Shopping Center in Lexington, Kentucky. Floor & Decor signed a

10-year, NNN lease at a rental rate of $7.50/SF and will occupy nearly 50% of the shopping center. *Exs. R-A & R-B at 123; Tr. at 490.*

- Lease 2 is a 2019 lease of a former Shopko with 94,105 SF. It is part of a larger shopping center known as East Town Plaza and is located across the street from the East Towne Mall in Madison, Wisconsin. At Home signed a 10-year, NNN lease with three 5-year renewal options at a rental rate of $6.95/SF. At Home subsequently completed $4 million in renovations at its own cost. *Exs. R-A & R-B at 123; Tr. at 490.*
- Lease 3 is a 2015 lease of a former Kmart with 119,031 SF in Wauwatosa, Wisconsin. At Home signed a 5-year, NNN lease for 100,801 SF of the building at a rental rate of $5.35/SF. At Home paid $2.5 million for renovations, repairs, and remodeling. The remainder of the building is leased to Sears for use as an outlet store. *Exs. R-A & R-B at 124; Tr. at 490.*
- Lease 4 is a 2014 lease of a freestanding big box store with 162,000 SF in Louisville, Kentucky. Garden Ridge, L.P. (At Home) signed a 15-year, NNN lease with four 5-year option periods at a rental rate of $5.00/SF. *Exs. R-A & R-B at 124; Tr. at 490-491.*
- Lease 5 is a 2010 lease of a retail property with 125,000 SF that was previously owner-occupied by Home Depot as an Expo Design Center store in Manchester, Missouri. Weekends Only signed a 10-year, NNN lease for 113,000 SF with a fixed rental rate of $6.00/SF. The remaining 12,000 SF is occupied by a liquor store. *Exs. R-A & R-B at 124; Tr. at 491.*
- Lease 6 is a 2010 lease of a former Kmart with 118,161 SF located within a larger retail development in Hilliard, Ohio. Kmart vacated the building in 2003 and it sat vacant until Floor & Decor signed an amended NNN lease for 80,091 SF in 2010 at a rental rate of $8.00/SF. Floor & Decor received an improvement allowance of $8.11/SF, yielding an effective annual rental rate of $7.19/SF. In 2015, the remainder of the building (approx. 38,070 SF) was leased to furniture retailer Arhaus. *Exs. R-A & R-B at 124; Tr. at 491-492.*

72. Before adjustment, Hall's six comparable leases had rental rates ranging from $5.00/SF to $8.00/SF. He then adjusted them for differences in expense structure, market conditions, location, access/exposure, and age/condition. For 2020, the adjusted leases had rental rates ranging from $4.92/SF to $5.86/SF, with an average rate of $5.40/SF. For 2021, the adjusted leases had rental rates ranging from $4.95/SF to $5.91/SF, with an average rate of $5.43/SF. Because Lease 1 occurred after the assessment dates, Hall concluded to a slightly lower market rental rate than the averages and selected an indicated market rental rate of $5.25/SF as of both January 1, 2020, and January 1, 2021. *Exs. R-A & R-B at 127-132; Tr. at 491-500, 515.*

73. Applying Hall's indicated market rental rate to his estimate of the subject's total gross building area produced an estimated total potential rent of $454,708 for both years. From that, Hall deducted 6% for vacancy and collection loss based on recent market trends, typical investor assumptions, and expectations of future turnover risk from changing market conditions. He did not include any income from expense reimbursements given the NNN expense structure shared by the subject property and the comparable leases. Hall made expense deductions of 2.31% of effective gross income for management fees and $0.23/SF for structural maintenance (replacement reserves). Based on his income and expense projections, Hall estimated the subject's stabilized NOI to be $397,631 as of January 1, 2020, and January 1, 2021. *Exs. R-A & R-B at 133-136; Tr. at 500-502.*

74. To develop a capitalization rate to convert his NOI estimate into an estimate of value, Hall relied on CoStar analytic surveys for the subject's primary retail trade area and for freestanding retail properties in Indiana with at least 80,000 SF. The CoStar surveys for the subject's primary retail trade area had indicated cap rates of 8.22% for 2020 and 8.13% for 2021, while the second CoStar survey reported cap rates of 8.47% as of Q1 2020 and 8.37% as of Q1 2021. *Exs. R-A & R-B at 137-138; Tr. at 502-504.*

75. Hall also considered three investor surveys. The investor survey from Avison Young, which is specifically for the national big box sector, reported a market cap rate of 7.28%

as of Q1 2020 (it did not report data for 2021 due to COVID). The first Boulder Group surveys Hall reviewed were the Net Lease Big Box Reports, which reported median asking cap rates of 6.75% for Q4 2019 and 6.63% for Q4 2020. The second Boulder Group surveys covered non-investment grade big box properties with less than 5 years remaining in the lease term. They reflected a median asking cap rates of 8.25% for Q4 2019 and 7.75% for Q4 2020. *Exs. R-A & R-B at 138; Tr. at 504-505, 516-517.*

76. Additionally, Hall considered a cap rate indicated by a comparable sale. He liked the sale because its sale date was December 18, 2019, just a few weeks prior to the date of value for 2020. The big box property is a former Shopko with 106,238 SF that was leased to At Home as a second-generation big box tenant for a 10-year term at a rental rate of $7.00/SF. It had a cap rate of 7.12%. Hall also analyzed the cap rates for seven big box stores with short remaining lease terms. They had an average cap rate of 8.03%. *Exs. R-A & R-B at 139-140; Tr. at 506-507.*

77. Hall also developed the band-of-investment method. Instead of relying on transactional data, he was considering lending terms such as mortgage interest rates, equity dividend rates, and loan-to-value ratios. His analysis relied on market data from Realtyrates.com for the freestanding retail category. Based on Hall's assumptions and estimates for the subject, he derived cap rates of 8.45% for 2020 and 8.27% for 2021. *Exs. R-A & R-B at 141; Tr. at 507-508.*

78. The mathematical averages from all his methods/sources were 7.82% for 2020 and 7.76% for 2021. Hall gave some consideration to each of the individual indicators, but he gave slightly greater weight to data that was more specific to the subject's local and regional markets and to the Boulder Group cap rate data. He concluded to cap rates that fell near the middle of the ranges for each year: 8.00% as of January 1, 2020, and 7.90% as of January 1, 2021. *Exs. R-A & R-B at 142; Tr. at 508-509, 518.*

79. The final step Hall took to conclude to a value using the income approach was to convert his NOI estimate of $397,631 by dividing it by his cap rate conclusions for 2020 and 2021. Those calculations produced value indications of $4,970,390 for 2020 and $5,033,307 for 2021. Like he did in his sales comparison approach, Hall then added in the $73,000 in contributory value he estimated for the subject's mezzanine using the cost approach. This resulted in indicated values for the subject property of $5,040,000 (rounded) as of January 1, 2020, and $5,110,000 (rounded) as of January 1, 2021. *Exs. R-A & R-B at 143; Tr. at 509-510, 518.*

d. Hall's Reconciliation

80. In Hall's opinion, an investor or typical buyer would probably give some consideration to all three valuation approaches, and he felt he had sufficient market data to develop all three. Based on his analysis, Hall reconciled to opinions of retrospective market value-in-use for the subject property's fee simple interest of $4,800,000 as of January 1, 2020, and $4,900,000 as of January 1, 2021. *Exs. R-A & R-B at 144-146; Tr. at 510, 519.*

C. ANALYSIS

81. Generally, an assessment determined by an assessing official is presumed to be correct. *See* 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be.[5] *Piotrowski v. Shelby County Ass'r.,* 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).

82. In order to meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v. Shelby County 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 County Ass'r*, 842 N.E.2d 899,900, (Ind.

[5] We note that Kohl's made no arguments regarding the burden of proof generally, or any specific arguments about the potential applicability of Indiana Code § 6-1.1-15-17.2 (repealed 2022).

Tax Ct. 2006). This is because the "formalistic application of the procedures and schedules" from the Department of Local Government Finance's ("DLGF") 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.

83. Market-based evidence may include "sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles." *Peters v. Garojfolo*, 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 County 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 2020 and 2021 assessments, the valuation dates were January 1, 2020, and January 1, 2021, respectively. I.C. § 6- 1.1-2-1.5(a)

84. In Indiana "each assessment and each tax year stands alone" and the Board "evaluates each property's value based on its specific facts and circumstances." *CVS Corp. v. Monroe Cty. Ass'r*, 83 N.E.3d 1286, 1292 (Ind. Tax Ct. 2017). The Board is "not bound to reach the same conclusions regarding the persuasive value of an appraiser's reports and valuation methods for different tax years or different properties." *Id.* The Tax Court has held that the "valuation of property is an opinion and not an exact science." *Monroe Cty. Ass'r v. SCP 2007-C-26-002*, LLC, 62 N.E.3d 478, 482 (Ind. Tax Ct. 2016).

85. A trier of fact is often "faced with [multiple] qualified experts who presented diametrically opposed opinions, supported by extensive reports and reasoning, as to the value of [certain] real estate." *Crider v. Crider*, 15 N.E.3d 1042 (Ind. Ct. App. 2014). It is up to the trier of fact to "judge the credibility of the battling expert witnesses." *Id.* at 1059 (quoting *Goodwine v. Goodwine*, 819 N.E.2d 824, 830 (Ind. Ct. App. 2004)). The Board must determine what portions of an appraisal are supported by the evidence:

> The Indiana Board is Indiana's property valuation and assessment expert. Consequently, when the Indiana Board ascertains . . . that parts of an appraisal are not probative, it should not then accept those parts of the appraisal to value the property.

Marion County Assessor v. Wash. Square Mall, LLC, 46 N.E.3d 1, 14 (Ind. Tax Ct. 2015).

1. Allen's Appraisal

86. Based on our review, we conclude that Allen's three valuation approaches did not produce particularly strong value conclusions. Allen's sales comparison and income approaches suffer from a lack of good comparable sales and leases and poorly supported decisions regarding adjustments. And his concluded value from the cost approach is too reliant on the other two approaches and is therefore an even less reliable indicator of value than they are. Nevertheless, we ultimately conclude that Allen's appraisal is the most persuasive evidence of the subject property's market value-in-use.

a. Allen's Sales Comparison Approach

87. For his sales comparison approach, Allen relied on five sales from Indiana and three from Michigan. Two of the Indiana sales (Sales 1 and 6) are not big box stores. Although Allen applied a downward 10% adjustment to both sales, he failed to adequately support his adjustment with market data. More importantly, Allen stated that there is a *stronger market and higher prices* for buildings smaller than 80,000 SF, and we view his comment as an admission that they do not compete in the same market segment as the subject property. We therefore conclude that the inclusion of Sales 1 and 6 as comparable sales detract from the reliability of Allen's analysis.

88. We reach the same conclusion about the majority of Allen's remaining sales. Allen admitted that only three of his eight comparable sales were put to use as big box stores after sale (Sales 1, 3, 7), while two of the properties were put to no use (Sales 2 and 6),

two were demised for multi-tenant use (Sales 4 and 8), and one was used for self-storage (Sale 5). We will not simply assume that properties with no post-sale use share the same market as the subject property, and they certainly were not used for retail purposes both before and after sale as Allen claimed. We have also 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. And we have little trouble concluding that self-storage is a fundamentally different use than the subject's current use as a big box retail store. We therefore agree with the Assessor that Allen's generic description of Sales 2, 4, 6, and 8 as being used for retail purposes both before and after sale does little to establish that they compete in the same market segment as the subject property.

89. Four of Allen's eight purportedly comparable sales also sold with deed restrictions that limited some of the properties' potential future retail uses for periods ranging from 4 to 50 years. We agree with the Assessor that regardless of when the parties negotiated the terms of the restrictions, they impair the properties' future marketability. We are also puzzled by Allen's decision to apply a 5% adjustment to the affected sales despite concluding that the deed restrictions had no impact on their sales prices. And as the Assessor pointed out, the terms of the deed restrictions also vary significantly in both length and limitations, making a blanket 5% adjustment inappropriate. Lastly, we note that Sale 7 has a 25-year deed restriction from a prior sale in 2016 that specifically prohibits the use of the property for a discount department store or discount store containing more than 50,000 SF of space. While Allen claimed that the deed restriction did not interfere with the buyer's intended use of the property, it rules out any future use of the property as a big box discount store like the subject until 2041. When paired with the fact that Sale 7 (78,434 SF) does not quite fit Allen's definition of a big box store in the first place, we conclude that its inclusion as a comparable sale further reduces the reliability of his analysis.

90. That leaves Sales 3—a former Menards in Portage, Michigan with enough surplus land that it was able to accommodate the buyer's 27,000 SF expansion of the building.

Although Allen applied a 15% downward adjustment to account for the surplus land, he offered no market data supporting the adjustment. He also concluded that no adjustment for expenditure after sale was necessary to account for the significant expansion despite his failure to verify whether the buyer's post-sale expenditures were anticipated by the parties to the transaction or whether they affected the sales price. As a result, Sale 3 provides very little support for Allen's concluded value of $26.00/SF.

91. Although Allen examined three additional sales from Indiana, he did not include them in his grid because he did not think they were very good comparable sales. Nor did he use them to derive his indicated value for the subject property. Finally, the Harrington and RERC studies he offered contained sales data on a broad mix of properties with more than 50,000 SF from as far back as 2010. Consequently, they are not reliable indicators of the proper price range for the big box market the subject property was competing in on the dates of value at issue here.

92. Because Allen relied almost exclusively on sales of properties that are not particularly comparable to the subject property and failed to adequately support several of his decisions regarding adjustments, we conclude that his sales comparison approach is minimally probative of the subject property's market value-in-use.

b. Allen's Income Capitalization Approach

93. Allen's income capitalization approach has several problems that reduce its credibility. They include issues with his choice of comparable leases and his decisions regarding adjustments.

94. We start with Allen's selection of comparable leases. He relied on four consummated leases and a listing, but he acknowledged that he did not actually review any of the leases himself. We seriously question his decision to include Lease 15, a 2018 listing for a former Marsh in Fort Wayne, Indiana. At 65,000 SF, it does not fit Allen's definition of a big box store, and more troubling—it was just a listing. Thus, we do not consider it a

good indicator of market rent. As for the four consummated leases, we note that all but one of the buildings was older than the subject property and only one is from Indiana. We are also concerned by his inclusion of a lease from an area he described as one of the most affluent suburbs near Detroit (Lease 11), and a lease for a property located along one of the busiest roads in Michigan (Lease 14). And given its current use as an entertainment center, we also question Allen's decision to include Lease 13 as well. While these may be the best leases Allen could locate given the apparent lack of single-tenant leases for large retail space in Indiana and the surrounding region, they do not make for a particularly compelling market rental rate conclusion.

95. Furthermore, Allen failed to adequately explain the reasoning behind his adjustments for conditions of lease, size, arterial attributes, demographic attributes, retail submarket attributes, and age/condition. And he offered no details about the market data he used to develop the quantitative adjustments he applied for differences in those characteristics. Given that Allen's total adjustments reduced his market rents by as much as 38.8%, we conclude that this lack of detail further diminishes the reliability of his income capitalization approach.

96. Finally, as Allen himself noted, the income approach has several deficiencies compared to the sales comparison approach because rents are not adjusted for tenant improvement allowances and the capitalization rates reported for big box stores are based on credit tenants.

97. We conclude that the problems we have identified with Allen's income capitalization approach weaken its probative value as an indicator of the subject property's market value-in-use.

c. Allen's Cost Approach

98. Allen concluded that his cost approach was the least reliable of his three valuation approaches. He explained that buyers and sellers of existing properties like the subject

do not generally make decisions based on the cost approach. He also thinks it is less reliable because of the substantial accrued depreciation due to the subject property's physical age and because obsolescence is difficult to estimate without extracting it from the other two valuation approaches. He therefore gave it the least consideration in his reconciliation.

99. In his post-hearing brief, the Assessor elected to focus exclusively on the problems arising from Allen's attempts to calculate obsolescence. Because we did not identify any major issues with the other elements of Allen's analysis, we will as well. According to Allen, functional obsolescence is a loss in value due to the layout, design, or other characteristics within the boundaries of the property, while external obsolescence is a loss in value due to factors outside of the property's boundaries. He concluded that the subject property suffers from both forms of obsolescence. But we think the reasons he gave in support of that conclusion are too generalized to support the significant amounts of obsolescence Allen found—$1,826,764 (about 23% of the replacement cost new) as of January 1, 2020, and $1,639,224 (about 20% of the replacement cost new) as of January 1, 2021.

100. Furthermore, we agree with the Assessor's argument that because the methods Allen used to quantify obsolescence rely on data from his other two valuation approaches, Allen's cost approach is not an independent indicator of value. Its overall reliability is therefore dependent on the strength of the other two approaches.

101. We have already concluded that Allen's sales comparison approach has minimal probative value due to his selection of properties that are not particularly comparable to the subject and his failure to adequately support several of his decisions regarding adjustments. And we reached a similar conclusion regarding Allen's income approach due to his selection of comparable leases and the lack of support for the adjustments he applied to them, both of which ultimately factored into his estimated NOI. Because Allen's sales and income approaches did not produce particularly strong valuations, we

find that their use in quantifying obsolescence prevented him from determining a reliable adjustment. And given that we question whether one was warranted at all, we ultimately agree with Allen that his cost approach produced the least probative valuation of any of the three approaches he developed.

2. Hall's Appraisal

102. After reviewing Hall's appraisal, we conclude that his three valuation approaches did not produce persuasive value conclusions. While we disagree with some of the criticisms Kohl's lodged against Hall's sales comparison and income approaches, his lack of new research along with his choices regarding comparable sales and the adjustments he applied to them leave us with little confidence in his value conclusions. As for the cost approach, we primarily take issue with his depreciation estimates, which we think failed to accurately reflect physical deterioration of the subject's improvements. Although the cost approach was Hall's best overall approach, we ultimately think it is the least applicable valuation approach for this assignment given the age of the subject property.

a. Hall's Cost Approach

103. We start by noting that in its post-hearing brief, Kohl's only criticism of Hall's cost approach was his reliance on data from two CoStar surveys to conclude that the subject property was not negatively impacted by economic (external) obsolescence. But as we discussed when reviewing Allen's cost approach, we question whether any kind of obsolescence adjustment was truly necessary. Indeed, we generally agree with Hall's characterization of the building's construction characteristics, features, and size as being consistent with market norms and contemporary building standards. And Allen failed to meaningfully relate his evidence regarding limited market demand for big box stores to the subject's location in Anderson.

104. We did find a problem with Hall's cost approach that diminishes its credibility to some extent. We take no issue with his land valuation or his replacement cost estimates.

Indeed, while the appraisers' views of the building's construction quality differed somewhat, we note that their land and undepreciated replacement cost estimates were fairly similar. However, we think Hall's depreciation estimates failed to accurately reflect the subject property's physical deterioration.

105. Hall and Allen both concluded that the effective age of subject property's building was consistent with its actual age on the respective valuation dates for 2021 and 2022, and they both looked to MVS for its typical lifespan. But unlike Allen, Hall merely used MVS's reported lifespan of 35 years as a starting point. After considering the economic lifespans of his comparable sales and leases and the former Anderson Target, Hall ultimately elected to use a lifespan of 40 years. However, his decision to use a longer lifespan was largely based on his own assumptions about the remaining economic life of his comparable sales and leases. Hall also eschewed MVS's 15-year estimate of the site improvements' useful life and applied a 50% physical depreciation estimate for both 2020 and 2021 based on his inspection. In the aggregate, Hall's decisions produced total physical depreciation estimates of nearly $1 million less than Allen's for both years. While we acknowledge that an appraisal is more art than science, we conclude that Allen was on more solid ground with respect to this element of the cost approach. Nevertheless, because the cost approach is the least applicable valuation approach for this particular assignment, we note that it ultimately has little bearing on our final determination.

b. Hall's Sales Comparison Approach

106. We now turn to Hall's sales comparison approach. While we disagree that it was "gross error" for Hall to ignore the sale of the Anderson Target as Kohl's claimed, we are deeply troubled by Hall's decision to rely on a preselected set of comparable sales. His failure to perform any additional research specific to this appraisal led him to rely on six purportedly comparable sales from other big box assignments he had in progress. However, most of them have significant issues that detract from the reliability of Hall's analysis. Among other things, all six of Hall's sales have buildings that are older than the

subject property, only one of the properties is located in Indiana and it was part of a portfolio sale with an allocated sales price, the remaining sales are from disparate locations as far away as Minnesota, and with the exception of Sale 3, Hall has never physically inspected any of them.

107. Sale 1 sold to a developer in August 2021, approximately 20 months after the 2020 assessment date and eight months after the 2021 assessment date. Hall added $786,185 to its purchase price for alleged expenditures after sale the buyer intended to make to cure deferred maintenance. However, he did no additional research to confirm the status of the renovations as of the August 2021 closing date. And a news report contained in his work file indicates that renovations were likely ongoing at the time of sale. We agree with Kohl's that given the large upward adjustment he made for the purported expenditures after sale, Hall should have done more to verify the details of this sale with the parties before adjusting it. Because he failed to do so, we conclude that its inclusion as a comparable sale reduces the reliability of his analysis.

108. Hall not only failed to report the correct acreage for Sale 3, but his research also failed to reveal that Sales 3 and 4 were part of a portfolio transaction. As Allen's testimony confirmed, Sales 3 and 4 were sold as part of a bulk sale of five Sam's Club stores, and the buyer was allowed to allocate the purchase price among the five properties to fit its business needs as long as the total price was not changed. Thus, the sales prices Hall relied on do not represent agreed-upon prices between a buyer and seller (i.e., a market price)—they reflect the buyer's allocation of that price for its own needs. For that reason alone, Sales 3 and 4 are not suitable comparable sales. We also note that Hall reported the wrong acreage for Sale 3. These errors seriously impair the reliability of Hall's sales comparison approach, and they reduce our confidence in his appraisal on the whole.

109. Sales 5 and 6 had been vacant prior to sale for approximately 15 and 10 years, respectively. More concerning, however, is the fact that they were both purchased for conversion into multi-tenant uses and after the planned partitioning neither of the

properties would have a space large enough to accommodate a big box store. Thus, we are not convinced that they were truly competing in the same market segment as the subject property.

110. We also conclude that the surveys of the subject property's primary retail trade area and freestanding retail properties in Indiana with at least 80,000 SF did not provide him with sufficient data on big box property transactions to credibly adjust his comps. In fact, the survey covering the primary retail trade area only included data from seven big box retail stores, while the survey of freestanding retail properties was just an inventory and included data on a variety of property types including shopping malls and multi-tenant shopping centers. Because Hall used these two surveys as the basis for the market conditions adjustments he applied to all six of his comparable sales, we conclude those adjustments lack support. We also agree with Kohl's that because Hall's survey data only covered 2013 to 2020, it could not be used to trend Sale 1 since it closed in August 2021. Hall also failed to explain how he quantified his adjustments for location and access/exposure. Given that some of those adjustments were as large as 20%, we conclude that some additional explanation of how he quantified them was in order.

111. Hall relied on a preselected set of comparable sales and failed to perform additional research even when it was sorely needed. As a result, he based his analysis on a collection of far-flung properties, two of which (including the only property in Indiana) are not suitable comparable sales because they were sold as part of a portfolio sale with a sales price the buyer was allowed to allocate to suit its own needs. Hall also failed to adequately support several of his decisions regarding adjustments. Consequently, we do not find his sales comparison approach to be particularly probative of the subject property's market value-in-use.

c. Hall's Income Capitalization Approach

112. Hall's income capitalization approach contains many of the same types of errors that permeate his sales comparison approach, which is not surprising given that the process he

followed to select market rents was similar to the process he used to select comparable sales. And like in his sales comparison approach, Hall elected to forgo additional research for new comparable leases and instead relied on comparable rent information that was already available to him.

113. Among the six leases he selected for comparison is a 2022 lease (Lease 1) and two 2010 leases (Leases 5 and 6). Lease 1 did not yet exist on either assessment date and Leases 5 and 6 were around a decade old by the 2020 assessment date, making them unreliable indicators of market rent absent proper adjustments to relate them to the valuation dates at issue. But as Kohl's pointed out, because the survey data Hall used only covered the time between 2013 to 2020, he could not make credible market conditions adjustments for those three leases since they were leased outside of that period. And we are not convinced that Hall's decision to conclude to a slightly lower market rental rate fixed the problem with Lease 1. We also note that Hall once again failed to adequately explain how he quantified his adjustments for location and access/exposure.

114. To develop his capitalization rate, Hall relied on CoStar analytic surveys for the subject's primary retail trade area and for freestanding retail properties in Indiana with at least 80,000 SF. Kohl's strongly criticized his reliance on the two CoStar analytic surveys because the survey of the primary retail trade area had extremely limited data from big box retail stores, and the survey of freestanding retail properties contained data from a mix of property types, many of which are fundamentally different than the subject property. We agree that the two CoStar analytic surveys do little to support Hall's cap rate conclusion for the subject property. However, he also considered three investor surveys, a cap rate indicated by a sale in the state of Washington, cap rates for seven big box stores with short remaining lease terms, and a band-of-investment analysis he developed. Except for the cap rate from the Washington sale and the first Boulder Group survey, we think Hall's data is largely supportive of his concluded cap rates. Thus, we are not overly bothered by the fact that he purported to place slightly greater weight on the two CoStar analytic surveys and to the Boulder Group cap rate data.

115. Although we conclude that Hall's capitalization rate has sufficient support, we are still bothered by his decision to forgo additional research for new comparable leases. The decision to go with the comparable rent information he already had left him with two stale leases and a lease that did not even exist as of the assessment dates. And he compounded that problem by failing to make credible market conditions adjustments. Hall also failed to adequately explain how he quantified two of his other adjustments. We conclude that these problems largely undermine the probative value of his income capitalization approach.

3. Weighing the Evidence

116. Because Allen's appraisal was sufficient to make a prima facie case, we now turn to weighing the evidence to determine whether Hall's appraisal was strong enough to rebut it. Both appraisers analyzed the subject property's value using all three generally accepted valuation approaches. Neither of their respective cost approaches produced persuasive valuations. And given the age of the subject property, we conclude it is the least applicable valuation approach for this assignment. Both appraisers' sales comparison and income approaches had similar issues related to the selection of comparable sales and leases and their adjustment choices. However, Hall's decision to simply rely on a preselected set of comparable sales and leases and his reliance on allocated sales prices from a portfolio sale in his sales comparison approach ultimately tip the scales in Kohl's favor, if only slightly. Thus, after weighing the evidence, we find Allen's appraisal to be the most persuasive valuation evidence of the subject property's true tax value for the 2020 and 2021 assessment years.

IV. CONCLUSION

117. We find for Kohl's and order the assessments changed as follows:

Assessment Date	Total Assessment
January 1, 2019	$2,312,800
January 1, 2020	$2,360,000
January 1, 2021	$2,380,000

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>.