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REPRESENTATIVES FOR THE RESPONDENT: Brian A. Cusimano, Attorney
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BEFORE THE INDIANA BOARD OF TAX REVIEW

Nestlé USA Inc.,	)	Petition Nos.: 48-039-18-1-3-01014-19
	)	48-039-19-1-3-00506-20
Petitioner,	)	48-039-20-1-3-00654-22
	)	48-039-21-1-3-00655-22
	)	48-039-22-1-3-00584-23
v.	)	48-103-23-1-3-00092-24
	)	
	)	Parcel No.: 48-14-04-900-001.000-039
Madison County Assessor,	)	
	)	County: Madison
Respondent.	)	
	)	Assessment Years: 2018-2023

August 18, 2025

FINAL DETERMINATION

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

INTRODUCTION

1. Nestlé USA Inc. ("Nestlé") appealed the 2018-2023 assessments of an industrial manufacturing facility in Anderson. Both the Assessor and Nestlé presented appraisal reports from qualified experts. We find the Assessor's appraiser more persuasive because he presented a more complete analysis and better supported key aspects of his appraisal. His values carry the day for 2018, 2022, and 2023, but because of the unique application of a now repealed burden-shifting statute, the assessments for the other three years must revert to the value we determine for 2018.

PROCEDURAL HISTORY

2. Nestlé USA Inc. ("Nestlé") filed Form 130 appeals for the 2018-2023 assessment years for property located at 4300 W 73rd St. in Anderson on the following dates:

Assessment Year	Filing Date
2018	October 12, 2018
2019	June 12, 2019
2020	June 1, 2020
2021	May 18, 2021
2022	(Form 130 not dated)
2023	May 30, 2023

3. The Madison County Property Tax Assessment Board of Appeals ("PTABOA") issued the followings determinations:

Year	Determination Date	Land	Improvements	Total
2018	September 27, 2019	$3,916,500	$44,648,400	$48,564,900
2019	July 24, 2020	$3,916,500	$46,901,800	$50,818,300
2020	July 29, 2022	$3,916,500	$47,556,600	$51,473,100
2021	July 29, 2022	$3,916,500	$48,028,100	$51,944,600
2022	September 28, 2023	$3,916,500	$50,234,000	$54,150,500

4. For 2023, the PTABOA failed to issue a determination within 180 days of the Form 130 filing and Nestlé appealed directly to the Board. The assessment of record for that assessment year is:

Year	Land	Improvements	Total
2023	$3,916,500	$50,238,500	$54,155,000

5. Nestlé appealed each assessment year to the Board on the following dates:

Assessment Year	Filing Date
2018	November 7, 2019
2019	August 10, 2020
2020	August 3, 2022
2021	August 3, 2022
2022	October 4, 2023
2023	February 12, 2024

6. From July 29-31, 2024, Andrew Howell, the Board's designated Administrative Law Judge ("ALJ"), held an in-person hearing. Neither the Board nor the ALJ inspected the subject property. Appraisers Douglas Vanderhook[1] and David Hall testified under oath.

7. Nestlé introduced the following exhibits:

Petitioner's Ex. A:	Appraisal Report prepared by Douglas Vanderhook dated May 22, 2024
Petitioner's Ex. B:	2017-2018, 2023 Subject Property Record Cards
Petitioner's Ex. C:	Summary of Vanderhook Appraisal
Petitioner's Ex. D:	Sale information for 4447 South County Road 400 West
Petitioner's Ex. E:	Sale information for 7705 Staples Dr.
Petitioner's Ex. F:	Sale information for 101 Bang Blvd.

8. The Assessor introduced the following exhibits:[2]

Respondent's Ex. A:	2018 Appraisal Report prepared by David Hall
Respondent's Ex. B:	2019 Appraisal Report prepared by David Hall
Respondent's Ex. C:	2020 Appraisal Report prepared by David Hall
Respondent's Ex. D:	2021 Appraisal Report prepared by David Hall
Respondent's Ex. E:	Hall Report Addenda
Respondent's Ex. K:	E-mail correspondence between Luca Viglione and Douglas Vanderhook
Respondent's Ex. R:	Press Release regarding 3500 Main St.
Respondent's Ex. T:	Vanderhook Deposition Transcript
Respondent's Ex. U:	2022 Appraisal Report prepared by David Hall
Respondent's Ex. V:	2023 Appraisal Report prepared by David Hall
Respondent's Ex. W:	Excerpts from Marshall Valuation Service publication[3]
Respondent's Ex. X:	Offering Memorandum 7550 Oak Grove Rd.
Respondent's Ex. Y:	Offering Memorandum 17300 West Broadway Rd.
Respondent's Ex. Z:	Offering Memorandum 2401 W. Pioneer Parkway
Respondent's Ex. AA:	Offering Memorandum 7121 Shelby Ave.
Respondent's Ex. AB:	Offering Memorandum 9101 Orly Dr.
Respondent's Ex. AC:	Offering Memorandum 7705 Staples Dr.
Respondent's Ex. AD:	Offering Memorandum 1901 Beggrow St.
Respondent's Ex. AE:	Offering Memorandum 1125 Sycamore Rd.
Respondent's Ex. AF:	Offering Memorandum for Moses Lake, Washington Property
Respondent's Ex. AG:	Offering Memorandum 6801 S. Sunnylane Rd.

[1] Mr. Vanderhook testified remotely via video conference.

[2] The exhibit letters are non-sequential because the Assessor did not offer every marked exhibit into evidence.

[3] During the hearing, the Assessor moved to admit Respondent's Ex. W, Nestlé had no objection, and the ALJ admitted the exhibit. At the end of the hearing, the ALJ went over the exhibits in order to give the parties a chance to verify the contents of the record. The ALJ mistakenly stated that Respondent's Ex. W was not offered. We now clarify that Respondent's Ex. W was properly offered and admitted.

Respondent's Ex. AH: Offering Memorandum 4199 & 4201 Gibraltar Ct.
Respondent's Ex. AI: Offering Memorandum 1990 Picolli Rd.
Respondent's Ex. AK: IRR Appraisal Report of 9101 Orly Rd.
Respondent's Ex. AM: E-mail from Luca Viglione
Respondent's Ex. AN: Letter from Tim Stires, City of Anderson
Respondent's Ex. AX: Sales information from Vanderhook Workfile
Respondent's Ex. AY: Appraisal Report prepared by Douglas Vanderhook dated October 4, 2023
Respondent's Ex. AZ: Demonstrative regarding Vanderhook Effective Age Adjustments
Respondent's Ex. BA: Demonstrative regarding Vanderhook Conditioned Space Adjustments
Respondent's Ex. BB: Summary of Hall Appraisal

9. The record also includes the following: (1) all pleadings, briefs, and documents filed in these appeals, (2) all orders and notices issued by the Board or ALJ; and (3) the three-volume hearing transcript.

OBJECTIONS

10. The Assessor objected to some testimony from Vanderhook regarding whether his "peers" would use an income approach to value a large owner-occupied food processing facility on the grounds that it was hearsay and speculative. Nestlé responded that the testimony fell under the hearsay exception for experts. Our procedural rules allow us to admit hearsay, with the caveat that we cannot base our final determination solely on hearsay that has been properly objected to and that does not fall within a recognized exception to the hearsay rule. 52 IAC 4-6-9(d). We also find that that the testimony was not speculative but was instead explaining the basis for Vanderhook's expert opinion. Thus, we overrule the objection and admit the testimony. *Tr. at 31-32.*

11. The Assessor objected to a portion of Vanderhook's testimony during cross-examination on the grounds that it was not in response to any question and was argumentative. Nestlé argued that Vanderhook was just continuing a response to a previous question in which he had been interrupted. The last question prior to this objection was:

> If you applied 35 percent [obsolescence] in the new report, would the value go up for this property, the concluded value?

Tr. at 91. Vanderhook answered the question by stating "No idea because I didn't do that…" and "[i]f you took 35 percent of the replacement cost new, you're going to come up with a whopping number…" After the Assessor's counsel began to rephrase the question, Vanderhook interrupted with a lengthy explanation regarding the reasons for differences in the obsolescence calculation between his October 2023 Appraisal Report and his May 2024 report. He also opined on whether the Assessor's counsel understood the differences. We agree with the Assessor that this was not responsive to the question and argumentative. Thus, we sustain the objection. Specifically, we exclude page 92 and lines 1-4 of page 93 of the transcript from evidence. *Tr. 91-93.*

12. Finally, the Assessor established on cross-examination that some of the supporting sales information that Vanderhook relied on, specifically for his "case study" on obsolescence, was not included in his work file, and thus not exchanged. The Assessor moved to strike these sales from evidence as well as the related testimony. The parties separately briefed this issue. The Assessor argued that per the Uniform Standards of Professional Appraisal Practice ("USPAP") this information was required to be in the work file. Further, the Assessor claimed his ability to cross-examine Vanderhook was prejudiced because this information was not exchanged. Nestlé argued that the Assessor became aware of this information in a deposition several months prior to the discovery cutoff and thus should have sought to obtain the information in discovery. Nestlé also argued that the work file was exchanged per the case management plan, and that Vanderhook had the discretion to leave this information out of his work file.

13. We agree with the Assessor that per USPAP the sales information should have been included in the work file because it was necessary to support Vanderhook's opinion. But we do not find that this failure merits the exclusion of the proffered evidence. The case management plan required the exchange of work files, and the work files were exchanged. Vanderhook's failure to include all required information in the work file should not result in sanctions for Nestlé under these circumstances. That said, we do find that the omission of this information from the work file reflects negatively on

Vanderhook's overall credibility, and particularly on the credibility of his obsolescence case study.

FINDINGS OF FACT

A. Subject Property

14. The subject property primarily consists of an approximately one million square foot industrial building located on approximately 183 acres of land in Anderson.[4] It is located near an interstate and has rail access. The building is mostly single-story, with a small basement, mezzanine, and second story. The main building contains a mix of USDA food-grade manufacturing, general manufacturing, warehouse, dock, office, and utilities. Some of the spaces are not climate-controlled, while others are heated only, or heated and air-conditioned. In addition, approximately 93,000 square feet are chilled at 36 degrees for cold storage. Most construction was completed in 2008, while numerous smaller additions were made in later years. There are also several ancillary support buildings. The property is used to manufacture a variety of products including coffee creamers and ready-to-drink beverages. *Pet'r Ex. A at 24-26, 87-103; Resp't Ex. A at 67-107; Tr. at 22-27, 180, 312, 327, 427-29.*

15. The 2018 assessment under appeal of $48,564,900 is an approximately 3.3% increase above the prior year's assessment of $47,000,000. *Pet'r Ex. B.*

B. Vanderhook Appraisal

16. Nestlé engaged Douglas Vanderhook of Cushman & Wakefield to appraise the market value-in-use of the subject property for the relevant valuation dates.[5] Vanderhook is a certified general appraiser with over 30 years of experience, primarily in the area of industrial properties. He has appraised several industrial properties in Indiana, and numerous food processing facilities nationwide. Vanderhook certified that his appraisal complied with USPAP. *Pet'r Ex. A at 1-9, Addendum E; Tr. at 13-20.*

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[4] In addition, there is an automated support and retrieval structure ("ASRS") of approximately 150,000 sq. ft. that both parties agreed was entirely personal property and not at issue in this appeal.

[5] Vanderhook originally developed a report for the subject property in October 2023 (Respondent's Ex. AY). He later made some updates and corrections which resulted in the May 2024 version offered by Nestlé (Petitioner's Ex. A). Our analysis focuses on the later report.

a. Vanderhook's Research and Market Analysis

17. Vanderhook began by analyzing the subject property's market. He first examined the Indianapolis-Carmel-Anderson Core-Based Statistical Area ("CBSA"). He identified several positive factors of the CBSA, including employment growth above the national average, strong demographic trends, and diverse industrial structure. He also found that manufacturing and logistics in particular were out-performing other industries. Turning to the local market, Vanderhook found that Anderson was a good location for industrial manufacturing with excellent access and regional connectivity. Vanderhook also looked at the food processing industry in general, finding that it was more resilient than other manufacturing sectors. But he found the national market for food processing facilities was weak due to a lack of transactions. He found that most of the recent sales of food processing facilities were sale-leasebacks or related to a bankruptcy or liquidation. He also noted that the dairy industry in particular was facing declining sales as more consumers move to plant-based substitutes. Finally, he concluded that the national industrial market was strong with healthy demand for high quality facilities. *Pet'r Ex. A at 29-86; Tr. at 22-24.*

18. Vanderhook determined the subject property's highest and best use was consistent with its current use, that of "an industrial food (beverage/dairy) processing and distribution facility." Vanderhook developed a cost approach and a sales-comparison approach. He did not develop an income approach because he did not believe the subject property was of a type that would typically be used for rental income. He also noted that lease comparables were rare and generally not market transactions. *Pet'r Ex. A at 108-13; Tr. at 29-34.*

b. Vanderhook's Land Value

19. Vanderhook did not perform an independent land valuation. Instead, he concurred with the subject property's current land assessment because he found it to be reasonable. He then used an indicated land value of $3,916,500, identical to the subject property's current land assessments, for each year under appeal. *Pet'r Ex. A at 114; Tr. at 34-35, 131-32.*

c. Vanderhook's Cost Approach

20. Vanderhook began his cost approach by estimating the subject property's replacement cost new ("RCN") for each year using cost estimates from Marshall Valuation Service ("MVS"). He broke down the improvements into three categories: manufacturing, cold storage, and refrigeration equipment. He estimated each section as class C average quality construction. He made adjustments for factors such as HVAC, interior finish, basement, mezzanine, sprinklers, elevators, and height. Next, he applied a current cost modifier and a local modifier. After applying those estimates to the square footage, and adding 10% indirect costs, he arrived at the following estimates of total RCN for the structures:

Year	RCN
2018	$85,804,038
2019	$88,146,853
2020	$89,992,476
2021	$95,783,963
2022	$106,410,817
2023	$113,386,379

Vanderhook did not include any entrepreneurial incentive or profit because he found it is not typical for owner-occupied buildings. He also stated that "there was some indication that entrepreneurial incentive wasn't a cost that was accepted by the Board." He did include a 10% entrepreneurial incentive adjustment in his original report, but testified that its inclusion was incorrect. *Pet'r Ex. A at 114-43; Resp't Ex. AY at 113-21; Tr. at 25-44, 139-40.*

21. Next, Vanderhook performed a similar analysis for the site improvements. This included estimates for paving, landscaping, fencing, rail siding, utility buildings, and guardhouses. This resulted in total RCN for site improvements ranging from $6,478,270 to $9,046,283 depending on the year at issue. *Pet'r Ex. A at 114-43; Tr. at 48.*

22. Vanderhook then estimated the depreciation of the improvements. He concluded the subject property suffered from physical deterioration as well as functional and external obsolescence. He used the age-life method to estimate physical deterioration. Because the subject property was constructed over a period of years, he separately estimated effective age for different sections of the structures. For the most part, he found the subject property's effective age was slightly older than its actual age for each year at issue. This resulted in physical depreciation estimates for the components of the main structure ranging from 28.89%-65% depending on the component and year at issue. When applied to the RCN, this yielded the following deductions for physical depreciation:

Year	Physical Depreciation
2018	$25,102,192
2019	$27,836,260
2020	$30,501,591
2021	$34,681,014
2022	$41,019,321
2023	$46,385,177

He applied a similar analysis to the site improvements, which resulted in depreciation ranging from $3,082,813 to $6,989,508 depending on the year at issue. *Pet'r Ex. A at 114-43; Tr. at 40-48.*

23. Next, Vanderhook estimated functional obsolescence. He determined the subject property suffered from some functional obsolescence due to its "overall layout and design." In particular, he pointed to approximately 150,000 sq. ft. of interstitial space below one section of the ceiling which was unusable because of its low load capacity. He ultimately concluded to 5% functional obsolescence. He applied this to the RCN of the primary structure, less physical depreciation, to estimate values for functional obsolescence ranging from $2,621,214 to $2,951,378. *Pet'r Ex. A at 114-43; Tr. at 40-45.*

24. In addition, Vanderhook found the subject property suffered from external obsolescence. He based this conclusion on his observations of the market and on case studies of industrial property sales. Through these studies, he concluded that properties in the market sell for substantially less than their physically depreciated values. He opined that this was due to external obsolescence. In support of this, he presented four sales of food processing facilities that sold between September 2013 and December 2015 that were compiled by his firm. Each sale is accompanied by estimates of factors such as actual cost new, depreciation, and land value. Most of the data was provided by brokers, and Vanderhook did not develop his own cost estimates. He admitted that he did not know whether the costs were similar or dissimilar to cost figures from MVS like those he used to estimate the subject property's RCN. He did develop his own land value for at least one of the sales but admitted that he did not use any comparable sales data to do so. Instead, he based it on "the market out there and the property record information." The seller of at least one of the properties was in bankruptcy. Based on this data, the studies show that the four properties had an allocated sale price of between 38.9% and 53.6% of their estimated depreciated replacement cost. He used this to conclude to 50% external obsolescence for the subject property for each year at issue. This resulted in the following estimates of external obsolescence:

Year	External Obsolescence
2018	$29,015,865
2019	$28,828,926
2020	$28,434,836
2021	$29,203,055
2022	$31,251,078
2023	$32,024,912

Pet'r Ex. A at 117-43; Tr. at 43-48; 143-66.

25. Finally, Vanderhook combined his estimates for the depreciated value of the buildings with his estimates for the site improvements. This resulted in estimates for the total depreciated improvements ranging from $29,838,474 to $33,053,300. After combining

these values with the subject property's current land assessments, Vanderhook concluded to the following rounded values under the cost approach:

Year	Cost Approach Conclusions
2018	$34,600,000
2019	$34,300,000
2020	$33,800,000
2021	$34,400,000
2022	$36,300,000
2023	$37,000,000

Pet'r Ex. A at 114-43; Tr. at 47-49.

d. Vanderhook's Sales-Comparison Approach

26. Vanderhook also developed a sales-comparison approach for the subject property. Because of the subject property's size and unique features as an industrial food and beverage processing facility, he determined that he needed to make a national search for comparables. He first looked for sales from 2010-2022 of industrial food processing facilities of over 450,000 sq. ft. located in the continental United States. He excluded portfolio sales, non-arm's length transactions, and properties that sold for land value. Due to the limited number of transactions, he also included refrigeration/cold storage facilities and multi-tenant properties. He ultimately selected 14 comparable sales. He used every sale for the 2021-2023 assessment dates but excluded some of the later sales from the earlier assessment dates. This table includes a summary of the 14 comparable sales:

#	State	Land (Acres)	Size (Sq. ft.	Property Rights	Year Built	% Conditioned or Refrigerated	Sale Date	Sale Price/Sq. ft.
1	IL	50.11	587,228	Leased Fee	1999	97.8%	10/21	$47.17
2	FL	200.00	732,742	Fee Simple	1976	24.3%	2/21	$18.42
3	NC	1608.00	1,300,281	Fee Simple	1978	16.5%	10/20	$14.50
4	TN	438.33	323,150	Fee Simple	2004	37.6%	11/19	$27.23
5	AL	116.9	1,335,237	Leased Fee	1985	32.3%	4/19	$33.70
6	IN	35.25	455,000	Fee Simple	1958	70.5%	5/18	$10.44
7	TX	90.63	1,126,017	Fee Simple	1989	33.3%	8/17	$46.18
8	GA	45.21	682,750	Leased Fee	1968	24.3%	11/16	$41.6
9	FL	53.40	683,750	Leased Fee	1976	26.7%	6/15	$26.69
10	TN	160.55	771,296	Fee Simple	1989	26.1%	12/14	$18.72
11	ID	40.61	463,982	Fee Simple	1970	38.6%	11/14	$23.98
12	OK	159.40	1,364,242	Fee Simple	2007	20.3%	9/13	$17.96
13	GA	60.29	735,233	Fee Simple	1978	45.9%	12/12	$22.78
14	FL	158.00	1,010,786	Leased Fee	1988	24.7%	1/10	$31.16

Pet'r Ex. A at 144-50; Tr. at 49-59.

27. Next, Vanderhook adjusted the comparables for property rights conveyed, conditions of sale, and market conditions. For his property rights adjustments, Vanderhook observed that his leased comparables sold for an average of 96% more than his non-leased comparables. Based on this, he adjusted the leased comparables downward by 20-30%. He did not analyze whether the leased comparables were leased at market rent. For his market conditions adjustments, he determined the market was relatively stable. He also cited to several instances where the same property sold twice and the later sale was for less than the earlier sale. He contended that this was due to the relatively small contributory value of the land as compared to the depreciation of the improvements. For these reasons, he did not include a time adjustment. Instead, he only adjusted for the rate of inflation based on the consumer price index. This resulted in an annual upward adjustment of 2%. *Pet'r Ex. At 151-53; Tr. at 54-58, 172-75, 198, 214-15.*

28. Vanderhook also adjusted the comparables for factors such as location, size, land-to-building ratio, age/quality/condition, loading facilities, clear height, office space, and

conditioned/refrigerated space. He based his location adjustments on the difference in average rents between the subject's market and the comparables. He adjusted 12 of the 14 comparables upward for inferior age/condition, and 2 downward because he deemed them inferior. He also adjusted 12 of the comparables upward for having less conditioned/refrigerated space, and one downward for having more. He also admitted that only two of the comparables were "reasonably close" to the subject property in terms of the amount of conditioned/refrigerated space. Based on his adjustments, he determined 13 of the 14 comparables were inferior to the subject property, while one was similar. The adjusted comparable sale prices ranged from $19.68/sq. ft. to $57.51/sq. ft. depending on the year at issue. The averages for each year ranged from $35.88/sq. ft. to $37.99/sq. ft. He found that a reconciliation near the average was appropriate. Applying these figures to the subject property's net rentable area resulted in the following conclusions under the sales-comparison approach:

Year	Sales-Comparison Approach Conclusions
2018	$30,300,000
2019	$30,300,000
2020	$29,900,000
2021	$30,300,000
2022	$31,300,000
2023	$31,800,000

Pet'r Ex. A at 153-71; Tr. at 58-62, 101.

e. Vanderhook's Reconciliation

29. To conclude his appraisal, Vanderhook reconciled his cost approach with his sales-comparison approach. He gave slightly more weight to the sales-comparison approach because of its relationship to the market and the difficulty of estimating depreciation in the cost approach. He concluded to the following values for each assessment year:

Year	Vanderhook Conclusions
2018	$32,000,000
2019	$31,900,000
2020	$31,500,000
2021	$31,900,000
2022	$33,300,000
2023	$33,900,000

Pet'r Ex. A at 172-73; Tr. at 61-62.

f. Weighing Vanderhook's Appraisal

30. Vanderhook is a skilled expert with significant experience in the appraisal of industrial property, though the value of this experience is tempered somewhat by his lack of familiarity with Indiana and the market value-in-use standard. In particular, his decision to rely on the current assessment rather than develop his own independent land valuation drastically undercuts the reliability of his cost approach. The Assessor criticized Vanderhook for some differences between a prior version of his report and the one presented for this hearing, but we do not find those arguments particularly persuasive.

31. We find Vanderhook provided generally reliable estimates of the replacement cost new of the subject property. We are much less confident in his estimates of obsolescence. While he did point to some sources of functional obsolescence, he did little to support his quantification of 5%. Vague references to the opinions of brokers, while acceptable in some circumstances, are not very persuasive when weighed against objectively verifiable evidence. And while he attempted to provide objective evidence for his external obsolescence adjustment, that evidence likewise fails. As the Assessor pointed out, Vanderhook used actual cost estimates from brokers for the case study comparables to develop adjustments to the subject property's replacement costs from MVS. We find Vanderhook's admission that he did not know whether the actual cost estimates were similar or dissimilar to the MVS cost figures seriously undercuts the reliability of this analysis. There is also little support for the estimates of depreciation and land value for the case study comparables. Each of these variables significantly affected the

conclusions of the case study. While we do not suggest that an appraiser must perform an appraisal-level analysis of every comparable used in his report, we do find that more is required here—especially when these components have such a large impact on his conclusions. In the same vein, Vanderhook's failure to include the supporting data for these case studies in his work file undercuts the credibility of his conclusions. For these reasons, we find Vanderhook's cost approach to have little persuasive value.

32. Turning to the sales-comparison approach, we recognize that there was limited data available and that in some instances an appraiser must work with what they have. That said, an appraiser's data must still support their conclusions. Vanderhook provided a large selection of comparables, but the lack of similarity between the comparables and the subject property is troubling. Most were much older than the subject property, and he concluded that all but one of the comparables were inferior to the subject property. These factors alone undermine the persuasiveness of his opinions. We also agree with the Assessor that Vanderhook's significant adjustments to the leased comparables were largely unsupported given that he provided no comparison of the lease rates to market rent. Overall, we find Vanderhook's sales-comparison analysis marginally credible.

33. As discussed above, we give little weight to Vanderhook's cost approach. He chose not to develop an income approach because he did not believe the subject property was of a type that would be typically rented. We agree with the Assessor that this is inconsistent with his choice to use leased comparables in his sales-comparison approach. We find his sales-comparison approach minimally credible but that it suffers from a lack of similar data. Because he gave the most weight to the sales-comparison approach, we find Vanderhook's conclusions to be sufficiently supported (albeit barely).

B. Hall Appraisal

34. The Assessor engaged David Hall, MAI of Integra Realty Resources to appraise the market value-in-use of the subject property for the relevant valuation dates.[6] Hall has been appraising since 2005 and earned his MAI from the Appraisal Institute in 2012. He

[6] Michael Lady, MAI also signed the report but did not testify.

has experience appraising a wide variety of commercial properties and works primarily in Indiana. Hall certified that his appraisal complied with USPAP. *Resp't Ex. A at 1-17, 225; Resp't Exs. B, C at 226; Resp't Exs. D, U, V at 229; Resp't Ex. E; Tr. 303-06.*

a. Hall's Research and Market Analysis

35. Hall began his analysis by researching the subject property's market. He found the subject property's neighborhood was in the growth stage, and the pace of new construction had been steady. In addition, he noted good rail and interstate access, average population trends, and limited supporting/complementary uses. Looking at national data, he found that food prices were rising and demand was increasing. He also noted that rental rates and sale prices for properties like the subject were increasing since 2013 and that new construction has increased since 2017. *Resp't Ex. A at 17-54; Tr. at 304-46.*[7]

36. After analyzing the subject property, Hall determined that it would compete in a limited market primarily due to its size. He determined that a similar user of the subject property (if vacant) would be a manufacturer, supplier, or distributor of food or beverage related products. Hall also found that properties like the subject compete nationally and that market participants look to aggregated data when negotiating sale prices and rental rates. *Resp't Ex. A at 35-54; Tr. 325-28.*

b. Hall's Land Valuation

37. Hall valued the subject property's land using the sales-comparison approach. In his search for comparable land sales, Hall looked for industrial land properties of 100-250 acres in the Indianapolis MSA. For 2018, he presented the following sales comparables:

[7] Hall prepared a separate appraisal report for each valuation date. But his testimony primarily focused on the 2018 report, noting differences when applicable. We do the same, centering our findings on the 2018 report. Our conclusions regarding Hall's 2018 opinion of value generally apply to each assessment date at issue.

Sale #	Sale Date	Acres	$/Acre
1	Jul-13	129.27	$45,582
2	Jul-16	170.34	$41,672
3	Apr-18	139.80	$40,094
5	Dec-18	218.19	$30,460

He did not use two sales from the subject property's industrial park because they were significantly smaller than the subject property. He adjusted the sales he selected for factors such as market conditions, conditions of sale, and location. He also considered adjustments for size, access/exposure, physical characteristics, zoning, and utilities, but determined none were necessary. *Resp't Ex. A at 116-29; Tr. at 346-54.*

38. After adjustment, the sale prices ranged from $29,242-$31,465/acre, with an average of $31,100/acre. Hall concluded to an indicated value of $31,000/acre for the 2018 assessment year. Hall performed a similar analysis for each assessment year at issue. After applying his indicated value per acre to the subject property's acreage, Hall determined the following values for the subject property's land for each assessment date at issue:

Year	Land Value Conclusions
2018	$5,680,000
2019	$5,870,000
2020	$6,050,000
2021	$6,600,000
2022	$7,340,000
2023	$7,340,000

Resp't Ex. A at 129-30; Resp't Exs. B, C at 116-30; Resp't Exs. D, U, V at 116-31; Tr. at 346-59.

c. Hall's Cost Approach

39. Hall also valued the improvements using the cost approach. He began by estimating the RCN of the subject property using data from MVS. Based on his research and

discussions with MVS staff, he concluded that "Cold Storage Facility" was the most appropriate classification for most of the subject property. He also valued certain sections under Light Industrial/Warehouse Shell, and Office Buildings. Overall, he identified 27 unique sections of the subject property in his cost estimates. Most sections were rated Average, with certain sections receiving Good, Cheap, or Low-Cost ratings. He also adjusted the costs for factors such as sprinklers, HVAC, date, locality, story height, and perimeter. He included 10% indirect costs, which he based on market norms. He did not include any entrepreneurial incentive. He ultimately concluded to the following RCN for the structures for each year under appeal:

Year	RCN
2018	$81,573,665
2019	$84,603,213
2020	$86,519,153
2021	$92,126,490
2022	$102,083,325
2023	$112,836,927

Resp't Ex. A, B, C at 131-43; Resp't Exs. D, U, V at 132-43; Tr. at 359-72.

40. Next, Hall performed a similar analysis for the site improvements. This included estimates for parking lots, paving, and rail spur. This resulted in total RCN for site improvements ranging from $5,757,881 to $8,197,484 depending on the year at issue. *Resp't Exs. A-C at 131-43; Resp't Exs. D, U, V at 132-43; Tr. at 359-72.*

41. After estimating the RCN, Hall then calculated depreciation. He considered physical deterioration, functional obsolescence, and external obsolescence. Hall concluded that the data in his market segmentation analysis indicated the subject property did not suffer from external obsolescence. For physical deterioration, he used the age-life method. Hall determined the subject property was in average condition overall and that the building improvements had an effective age consistent with their actual age. In particular, Hall testified that based on his physical inspection and review of historical aerial photographs, the roof was in a condition consistent with its age. He also noted that

as of 2023, he did not find any evidence that any permits for roof repair had been sought. Hall concluded to the following estimates of depreciation for the building improvements for each year under appeal:

Year	Physical Depreciation
2018	$16,856,483
2019	$19,279,409
2020	$21,596,418
2021	$25,020,840
2022	$29,973,871
2023	$35,611,867

He applied a similar analysis to the site improvements. This resulted in depreciation ranging from $2,878,941 to $3,675,896 depending on the year at issue. *Resp't Exs. A-C at 144-47; Resp't Exs. D, U, V at 145-48; Tr. 317-20, 329-30, 368-70.*

42. Next, Hall considered functional obsolescence. He found that the subject property did suffer from functional obsolescence because it was built to suit a particular user (Nestlé) and would have diminished utility and appeal for any subsequent user. In particular, he noted that the interior floor plan, construction materials, clear heights, HVAC systems, plumbing systems, electrical systems, mechanical systems, and provisions for truck (and rail) access all serve Nestlé's particular production process. He also found that some, but not all, of this obsolescence is accounted for by using the replacement cost rather than the reproduction cost. To quantify the remaining obsolescence, he developed an estimate of "equilibrium rent" which was the rent the subject property would be expected to receive based on its cost and risk profile if it were not affected by obsolescence. He then capitalized the difference between the equilibrium rent and the net operating income ("NOI") he developed in his income approach. This resulted in the following estimates of functional obsolescence for each year under appeal:

Year	Functional Obsolescence
2018	$25,790,000
2019	$25,480,000
2020	$19,800,000
2021	$20,270,000
2022	$23,858,497
2023	$34,970,000

Resp't Exs. A-C at 147-49; Resp't Exs. D, U, V at 146-50; Tr. 368-70.

43. Hall also developed a market extraction depreciation estimate to test the reasonableness of his other methods. To do this, he analyzed one sale of an industrial food manufacturing property of 644,040 sq. ft. The property sold in 2020 for $41,000,000. He picked this sale due to its similarity to the subject property. Using a sales-comparison analysis, he estimated the value of the land at $110,000. He then developed an estimate of RCN using data from MVS. After comparing the sale price (less land value) to the RCN, he estimated depreciation of 37.31%, or 2.87% per year given the age of the property. He compared this to his estimated annual depreciation for the subject property, finding it was less for each year under appeal. He attributed this difference to external influences and the superior characteristics of the sale property. Overall, he found that his market extraction technique provided a measure of support for his other depreciation estimates, but that the lack of data suggests it should not be used as the primary methodology. *Resp't Exs. A-C at 150-57; Resp't Exs. D, U, V at 151-58; Tr. 368-70.*

44. Before arriving at a final value under the cost approach, Hall made a downward adjustment for leasing commissions. He made this adjustment because the cost approach estimates value for the property at stabilized occupancy, while the sales-comparison approach, in which he used primarily sales of vacant properties, provides an estimate of value as if vacant. To account for this difference, Hall estimated the cost of leasing based on a percentage of market rent and deducted this amount from his depreciated replacement cost and land value. *Resp't Exs. A-C at 158-59; Resp't Exs. D, U, V at 159-60; Tr. 370-71.*

45. After combining all the relevant components, Hall arrived at the following conclusions of value under the cost approach:

Year	Cost Approach Conclusions
2018	$46,600,000
2019	$47,700,000
2020	$53,300,000
2021	$55,700,000
2022	$58,200,000
2023	$52,600,000

Resp't Exs. A-C at 158; Resp't Exs. D, U, V at 159; Tr. 370-71.

d. Hall's Sales-Comparison Approach

46. Hall also developed a sales-comparison approach. He looked for sales of industrial food processing or refrigeration/cold storage facilities of at least 500,000 sq. ft. He began in the local market and then expanded to the Indiana and national markets due to the lack of sales. For the same reason, he also expanded his search to general manufacturing properties on the basis that some food/beverage related companies acquire non-food/beverage properties and convert them to their use. Ultimately, he settled on the following comparable sales:

#	State	Land (Acres)	Size (sq. ft.)	Year Built	Use	Sale Date	Sale Price/sq. ft.
1	IN	68.39	1,119,195	2007	Food Distribution	7/13	$54.17
2	WA	163.47	613,325	2010	Ethanol and Sugar/Sweetener Production	9/15	$44.84
3	AZ	82.66	735,929	1986-2000	Food Packaging Production	11/16	$58.23
4	TX	90.54	1,126,017	1989	Food Distribution	8/17	$46.18
5	GA	39.93	644,040	2007	Beverage Manufacturing/Distribution	9/20	$63.66
6	OK	167.96	965,895	2003-2013	Industrial Manufacturing	12/21	$41.41

Hall used Sales 1-4 for the 2018 and 2019 assessment dates, Sales 1-5 for the 2020 assessment date, and Sales 1-6 for the 2021-2023 assessment dates. Hall noted that all of the properties were acquired for industrial use and were located within five miles of a major US or Interstate Highway. He also pointed out that the comparables bracket the subject property in terms of building size, build year, floor area ratio, and location demographics. *Resp't Exs. A-C at 160-67, 188; Resp't Exs. D, U, V at 161-69, 191; Tr. 372-84.*

47. Next, Hall adjusted the sales for factors such as personal property, market conditions, location, access/exposure, size, effective age, construction quality, and floor area ratio. He also considered adjustments for property rights, financing terms, conditions of sale, and expenditures after purchase, but determined none were necessary. In particular, he noted that Sale 1, which sold with a lease in place, did not require a property rights adjustment because it was leased at a rate consistent with market rent. He presented an extensive analysis in support of this conclusion including data from two prior appraisals of that property and the local market. Hall also pointed out that Sale 4 was subject to a short-term lease, but he did not find that it affected the purchase price. Hall's adjustments for construction quality included factors such as office space, clear height, docks, HVAC, and functional utility. Overall, two sales were rated similar construction quality and received no adjustments, while the four remaining sales received 5-20% construction quality adjustments. After applying all of his adjustments, the sale prices ranged from $44.78/sq. ft. to $65.35/sq. ft., depending on the year at issue. *Resp't Exs. A-C at 168-87; Resp't Ex. D at 170-90; Resp't Exs. U, V at 170-91; Tr. 384-94.*

48. In reconciling the adjusted sales, Hall gave the greatest weight to the mean indicator. This resulted in values ranging from $53.00/sq. ft. to $58.00/sq. ft. depending on the year at issue. After applying these values to the subject property's square footage, Hall arrived at the following conclusions of value under the sales-comparison approach:

Year	Sales-Comparison Approach Conclusions
2018	$51,700,000
2019	$52,900,000
2020	$54,000,000
2021	$55,000,000
2022	$56,900,000
2023	$56,900,000

Resp't Exs. A-C at 188; Resp't Ex. D at 191; Resp't Exs. U, V at 192; Tr. 389-95

e. Hall's Income Capitalization Approach

49. Finally, Hall developed an income capitalization approach. He began by estimating market rent using comparable leases. He looked for leases of industrial food/beverage related facilities of at least 500,000 sq. ft. which had commencement dates after January 1, 2013. He excluded sale leasebacks, portfolio transactions, build-to-suit leases, leases between related parties, and transactions that included intangible assets or personal property. After examining the data, he selected the following comparable leases:

#	State	Size (sq. ft.)	Type	Lease Start	Rent/sq. ft.
1	IN	1,119,195	Food Distribution	7/13	$3.25
2	MI	885,781	Food Manufacturing	8/14	$3.15
3	TX	775,094	Food Manufacturing	12/16	$3.50
4	OH	802,390	Beverage Distribution	2/19	$3.75
5	IL	570,028	Food Distribution	10/20	$4.56

All of the leases were triple net. Hall used every lease for the 2020-2023 assessment dates. He used Leases 1-4 for the 2019 assessment date, and Leases 1-3 for the 2018 assessment date. *Resp't Exs. A-C at 189-91; Resp't Ex. D at 192-94; Resp't Exs. U, V at 193-95; Tr. 396-403.*

50. After selecting his comparable leases, Hall adjusted the rental rates for factors such as market conditions, location, access/exposure, effective age/condition, construction quality, and floor area ratio. He also considered adjustments for expense structure and conditions of lease but determined none were necessary. After adjustments, the rents ranged from $3.10/sq. ft. to $4.44/sq. ft. depending on the year at issue. Based on these adjusted rental rates, as well as his observations of general market trends, Hall concluded to market rent estimates ranging from $3.50/sq. ft to $3.90/sq. ft. depending on the year at issue. Applying these estimates to the subject property's square footage yielded the following estimates for potential gross rent:

Year	Potential Gross Rent
2018	$3,414,880
2019	$3,427,302
2020	$3,581,771
2021	$3,679,901
2022	$3,778,032
2023	$3,827,097

Resp't Exs. A, B at 194-210; Resp't Ex. C at 194-211; Resp't Ex. D at 197-214; Resp't Exs. U, V at 198-215; Tr. 399-403.

51. Next, Hall considered expense reimbursements as well as vacancy and collection loss. He determined that because a triple net expense structure is assumed and reflected in the rental data, no expense reimbursements were necessary. For vacancy and collection loss, he explained that such deductions are not typically made for large industrial properties. Instead, market participants account for this risk through the capitalization rate. *Resp't Exs. A, B at 211; Resp't Ex. C at 212; Resp't Ex. D at 215; Resp't Exs. U, V at 216; Tr. 403-04.*

52. Next, Hall considered the subject property's expenses. He found that there was limited expense data for industrial manufacturing properties. Instead, he used PwC data from the warehouse market "East North Central" region. Based on this data, he concluded to expenses ranging from 2.39% to 2.67% of effective gross income, depending on the year

at issue. He used the same data for replacement reserves, concluding to reserves ranging from $0.13/sq. ft. to $0.18/sq. ft. Applying these expenses to his potential gross income yielded the following values for NOI:

Year	NOI
2018	$3,157,642
2019	$3,168,100
2020	$3,364,656
2021	$3,460,334
2022	$3,556,011
2023	$3,597,344

Resp't Ex. A at 212-14; Resp't Exs. B, C at 213-14; Resp't Ex. D at 216-17; Resp't Exs. U, V at 217-18; Tr. 403-04.

53. Hall estimated capitalization rates for each of the assessment years. He relied on a variety of data and methods, including surveys, comparable sales, and a band of investment technique. Based on surveys of leased industrial food processing facilities of over 500,000 sq. ft., he observed indicated capitalization rates of 6.59%-7.57%. He also looked at investor surveys in the national and Metro Tier II industrial markets, the regional and local markets, as well as the climate controlled/manufacturing market. These surveys show rates ranging from 4.44% to 9.13% depending on the property class and the year at issue. Overall, the investor surveys showed averages ranging from 5.41% to 6.50% depending on the year at issue. *Resp't Ex. A at 214-17; Resp't Exs. B, C at 215-218; Resp't Ex. D at 218-21; Resp't Exs. U, V at 219-22; Tr. 405-07.*

54. Hall also looked at capitalization rates extracted from comparable sales. He analyzed five leased fee sales of industrial properties that sold between 2013 and 2020. The capitalization rates for these sales ranged from 4.30% to 7.26%, with an average of 5.94%. *Resp't Ex. A at 215; Resp't Ex. B, C at 216; Resp't Ex. D at 219; Resp't Exs. U, V at 221; Tr. 405-07.*

55. In addition, Hall developed a band of investment estimate using data from Realtyrates.com. This technique provides a capitalization rate based on the rate of return on equity needed to attract investors based on interest rates and equity demands. This analysis suggested rates ranging from 7.26% to 8.58% depending on the year at issue. *Resp't Ex. A at 218; Resp't Ex. B, C at 219; Resp't Ex. D at 222; Resp't Exs. U, V at 223; Tr. 405-07.*

56. The average rates from all of these techniques ranged from 6.00% to 6.72% depending on the year at issue. Hall reconciled the data to rates near the average for each year:

Year	Capitalization Rates
2018	6.65%
2019	6.50%
2020	6.20%
2021	6.10%
2022	6.00%
2023	6.70%

Resp't Ex. A at 219; Resp't Ex. B, C at 220; Resp't Ex. D at 223; Resp't Exs. U, V at 224; Tr. 405-07.

57. After applying the capitalization rates to his NOI, Hall made one final adjustment for leasing commissions for the same reasons, and using the same method, as in his cost approach. After this adjustment, Hall concluded to the following values under the income approach:

Year	Income Approach Conclusions
2018	$46,500,000
2019	$47,700,000
2020	$53,300,000
2021	$55,700,000
2022	$58,200,000
2023	$52,600,000

Resp't Ex. A at 220; Resp't Ex. B, C at 221; Resp't Ex. D at 224; Resp't Exs. U, V at 225; Tr. 405-07.

f. Hall's Conclusions

58. Finally, Hall reconciled all three approaches to value. He determined that the cost approach was especially important given the lack of market data available for the other two approaches and the fact that market participants in this area are very well educated about cost. He gave secondary weight to the sales-comparison and income approaches because of the limited data available and the difficulty of quantifying adjustments to that data. He ultimately settled on the following values for the relevant valuation dates:

Year	Hall Conclusions
2018	$48,000,000
2019	$50,000,000
2020	$53,500,000
2021	$55,500,000
2022	$57,000,000
2023	$55,000,000

Resp't Ex. A at 221-23; Resp't Ex. B, C at 221-24; Resp't Ex. D at 225-27; Resp't Exs. U, V at 226-27; Tr. 407-09.

g. Weighing Hall's Appraisal

59. Overall, we find Hall presented a reliable opinion of value. He provided three credible approaches, with good quantity and quality of data. He generally provided excellent explanations for his adjustments, frequently supporting them with additional data. We credit his explanation that the cost approach was the most reliable method for this limited-market property, and we find his additional two approaches helpful in supporting his overall opinion. Nestlé made much of the fact that Hall does not specialize in the appraisal of industrial properties like Vanderhook. We agree that such specialization can be helpful. But in this case, we find Hall's familiarity with the Indiana market and the market-value-in-use standard, as well as his additional credentials in having achieved the MAI, more than makes up for this lack of specialization.

60. Hall developed his own analysis of the subject property's land value. He presented suitable comparable sales, and his adjustments were well-supported. Nestlé criticized Hall for not using two sales from the subject property's industrial park, but we credit Hall's explanation that they were too small to be sufficient comparisons. We also find no issue with Hall looking outside Madison County in order to find appropriate comparable sales. Because Vanderhook chose not to develop his own land valuation, Hall's analysis is the only credible valuation of the subject property's land in the record.

61. In his valuation of the improvements under the cost approach, Hall used the MVS "cold storage" designation as his starting point for a considerable portion of the subject property. He based this on his own research and discussions with MVS staff. We do not find, as Nestlé claimed, that Hall's decision to seek outside input on this matter casts any doubt on his conclusions. Rather, it shows that Hall appropriately used the resources available to him, as any appraiser should do. Based on the record, we find that both cold storage and light manufacturing were appropriate starting points, a conclusion buoyed by the fact that Hall and Vanderhook came to similar conclusions for RCN.

62. Turning to Hall's estimates of depreciation, we find that he appropriately accounted for the physical condition of the property. Nestlé argued that Hall did not sufficiently consider the condition of the roof, but we credit Hall's explanation that based on his research the roof was in typical condition for its age. Hall also provided a good explanation for his estimates of functional obsolescence. Nestlé disagreed, essentially arguing that Hall has overstated the functional obsolescence because Vanderhook concluded only 5% was appropriate given his understanding of the market. But Vanderhook's quantification was not well-supported like Hall's. We do agree with Nestlé that some of what Hall considers functional obsolescence overlaps with what Vanderhook attributed to external obsolescence. But we agree with Hall's conclusion that these factors were appropriately considered as functional obsolescence. Hall's quantification of the functional obsolescence using his equilibrium rent vs. NOI was well-supported, though we recognize that by using the NOI and capitalization rates from

his income approach Hall undercuts the independence of his cost approach.[8] Nevertheless, we find Hall has provided the most reliable estimate of obsolescence in the record. Nestlé did make some specific criticisms of Hall's secondary technique, the market extraction method, but Hall acknowledges the limitations of that method and does not use it as his primary methodology. For this reason, we do not find these criticisms impeach Hall's conclusions.

63. Nestlé primarily criticized Hall's cost approach because he chose not to include external obsolescence. It justified this by pointing to Vanderhook's conclusions for external obsolescence and his case studies. As discussed above, there is some overlap between Hall's estimates of functional obsolescence and Vanderhook's estimates of external obsolescence. For the remainder, we credit Hall's conclusions that no additional application of external obsolescence was necessary. And because we find Vanderhook's estimates of external obsolescence unsupported, we similarly find that they do not serve to impeach Hall's conclusions in any way. We also agree with Hall that the market extraction method (such as Vanderhook used) was not a particularly reliable technique given the data available. Overall, we find Hall's cost approach to be a reliable and persuasive estimate of the subject property's value for each of the dates at issue.

64. We now turn to Hall's sales-comparison approach. Both appraisers acknowledged this was a limited-market property as evidenced by the lack of quality sales data in either report. Hall presented only four to six sales, depending on the assessment date at issue. We find Hall did a good job of bracketing the property in terms of age and size. But as Nestlé pointed out, not all of the comparable sales were for food or beverage manufacturing properties. In particular, Sale 6 appears to have no food-related use, while the other five are at least food-related or food-adjacent. Given that this is a limited market property, we are persuaded by Hall's conclusions that food/beverage manufacturing companies would consider both food distribution facilities and non-food/beverage related alternatives and that such properties would compete in the same

[8] We address Nestlé's additional criticisms of Hall's NOI and capitalization rates in our discussion of Hall's income approach below.

market with the subject property. Nestlé also pointed out the lack of refrigerated/cold storage space in the comparables. We agree that this factor somewhat detracts from the reliability of Hall's analysis.

65. Turning to the adjustments, Nestlé criticized Hall for using leased-fee sales without adjustment. But we find Hall credibly established with market-based evidence that no such adjustments were necessary. Similarly, Nestlé criticized Hall for not making adjustments to some sales for factors such as personal property, but it provided little support for these claims. We credit Hall's explanations that such adjustments were unnecessary. We find Hall provided a good explanation for how he quantified most of his adjustments. Overall, Hall's sales-comparison approach suffers from the same deficiencies as Vanderhook's—a lack of good comparable sales. Nevertheless, we find Hall's sales-comparison approach to still be a credible opinion of value.

66. As discussed above, Hall also developed an income approach. Nestlé argued that Hall should not have developed an income approach at all given Vanderhook's claim that market participants do not consider it. But as discussed above, we do not find Vanderhook credible on this issue. Both Vanderhook and Hall used leased-fee sales in their sales-comparison approaches, indicating that both appraisers thought that there were comparable properties in the market that were in fact leased. Hall also presented five comparable leases. We easily conclude some portion of market participants consider the income approach. For these reasons, we find Hall's decision to develop an income approach entirely appropriate.

67. Turning to the specifics, we find Hall's leased comparables to be generally probative. Nestlé pointed to some differences between the leased comparables and the subject property, but Hall appropriately adjusted for the differences. And we find Hall provided a good explanation for his adjustments. Similarly, we find his estimate of expenses credible. Nestlé criticized Hall's concluded capitalization rates because the data he presented showed a wide range and included rates from general industrial properties. We do not fault Hall for considering all the data he deemed relevant, and we find his decision

to use rates near the average to be appropriate. Moreover, Hall's choice of capitalization rates, as well as his estimates of market rent and his income approaches generally, are the only reliable evidence for the income approach in the record.

68. Overall, we find Hall presented three credible estimates of value, though as discussed above, his cost approach is not independent from his income approach. Hall generally provided good explanations for his decisions. And while his report does suffer in some areas from a lack of compelling data, we find he was still able to use the data available to provide well-supported conclusions. Nestlé criticized Hall for reconciling to conclusions that were higher than his cost approach in some years while testifying that the cost approach generally sets an upper limit on value. We find some merit to this criticism, but given the difficulties of this assignment, we find it appropriate to rely on Hall's judgment that an atypical reconciliation was necessary. For these reasons, we find Hall's reconciled conclusions to be reliable evidence of value for each of the dates at issue.

BURDEN OF PROOF

69. These appeals span several years during which different statutory regimes governed the burden of proof in assessment appeals. *See* Indiana Code § 6-1.1-15-17.2 (repealed by 2022 Ind. Acts 174, § 32 effective on passage); I.C. § 6-1.1-15-20. Both statutes remove the normal presumption that an assessment is correct and shift the burden of proof to the assessor in cases where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, as last corrected by an assessing official, stipulated to or settled by the taxpayer and the assessing official, or determined by a reviewing authority. I.C. § 6-1.1-15-17.2 (a)-(b); I.C. § 6-1.1-15-20(a)-(b), (f). And where there is a failure of proof, both statutes require the assessment to revert to the level last determined for the prior year. I.C. § 6-1.1-15-17.2(b); I.C. § 6-1.1-15-20(f). Under the first statute, that reversion occurs where the assessor fails to offer probative evidence of the property's true tax value that "exactly and precisely conclude[s]" to the challenged assessment, and the taxpayer fails to show that its proffered assessment is correct. I.C. § 6-1.1-15- 17.2(b); *Southlake Ind., LLC v. Lake Cnty. Ass'r ("Southlake II")*, 174 N.E.3d 177, 179-80 (Ind. 2021); *Southlake Ind. LLC v. Lake Cnty. Ass'r ("Southlake III")*, 181

N.E.3d 484, 489 (Ind. Tax Ct. 2021). Under the second statute, the Legislature clarified that the reversion is triggered only where the totality of the evidence does not suffice to prove the property's true tax value. I.C. § 6-1.1-15-20(f).

70. For assessment years 2018-2021, we apply I.C. § 6-1.1-15-17.2 because those appeals were filed with the PTABOA prior to its repeal and I.C. § 6-1.1-15-20 specifically applies to Chapter 15 appeals filed after its effective date of March 21, 2022.[9] For assessment years 2022 and 2023, we apply I.C. § 6-1.1-15-20. Although there is no filing date for the 2022 Form 130 in the record, we infer that it would have been filed after March of 2022 given that none of the other appeals were filed until May of the respective assessment years. In addition, the 2022 Form 131 was filed after March 21, 2022, and that is the only filing date in the record for that year.

71. The 2018 assessment did not increase more than 5% above the prior year's assessment and both parties agreed that Nestlé had the burden of proof. The burden of proof for the later years necessarily depends on our determination for 2018. We explain how we determined the burden of proof for the later assessment years in our discussion of those years below. Here, we summarize which burden-shifting statute applies and which party bears the burden of proof based on the outcome of the prior year's assessment:

Assessment Year	Applicable Statute	Burden rests with
2018	I.C. § 6-1.1-15-17.2	Nestlé
2019	I.C. § 6-1.1-15-17.2	Assessor
2020	I.C. § 6-1.1-15-17.2	Assessor
2021	I.C. § 6-1.1-15-17.2	Assessor
2022	I.C. § 6-1.1-15-20	Assessor
2023	I.C. § 6-1.1-15-20	Nestlé

[9] *Crandall v. Bartholomew Cnty. Ass 'r*, 246 N.E.3d 350 (Ind. Tax Ct. 2024) seems to assume, but does not explicitly hold, that the filing date with the Board determines which statute applies rather than the initial filing with the PTABOA. In contrast, *Orange Cnty. Assessor v. Stout*, 996 N.E.2d 871, 873 (Ind. Tax Ct. 2013) held that a prior burden-shifting statute was intended to apply the same burden of proof throughout the entire appeal process. Based on *Stout* and the plain language of I.C. § 6-1.1-15-20, we apply I.C. § 6-1.1-15-17.2 to appeals filed with the PTABOA prior to March 21, 2022, and I.C. § 6-1.1-15-20 to appeals filed with the PTABOA after that date.

72. In sum, Nestlé bears the burden of proof for 2018 and has the burden to show the assessment is incorrect and what the correct assessment should be. For 2019-2021, the burden shifting provisions of I.C. § 6-1.1-15-17.2 are triggered and the Assessor has the burden of showing the current assessments are exactly and precisely correct. Nestlé similarly has the burden to show that its proffered assessments are correct. For 2022, the Assessor has the burden of proof under I.C. § 6-1.1-15-20 and the assessment will only revert if the totality of the evidence is insufficient to prove any value. For 2023, Nestlé has the burden of proof and the current assessment is presumed correct unless the totality of the evidence is sufficient to support a different value.

CONCLUSIONS OF LAW AND ANALYSIS

A. True Tax Value Standard

73. In Indiana, real property is assessed based on its "true tax value," which is determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). The DLGF defines "true tax value" as "market value-in-use," which it in turn defines as "[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011, 2021 REAL PROPERTY ASSESSMENT MANUALS 2. The Manual offers further guidance, defining "market value-in-use," "value-in-use," and "use value," as being synonymous. But it also states that where properties are regularly exchanged for their current use, market value-in-use contains a value-in-exchange component. MANUALS at 2; *see also, Millenium Real Estate Inv., LLC v. Benton Cnty. Ass'r*, 979 N.E.2d 192, 196 (Ind. Tax Ct. 2012) ("[W]hen a property's current use is consistent with its highest and best use, and there are regular exchanges within its market so that ask and offer prices converge, a property's market value-in-use will equal its market value because the sales price fully captures the property's utility.")

74. Thus, true tax value is something other than purely market value or value-in-use. Given mandates from the Indiana Supreme Court and Legislature, the DLGF created a valuation standard that relies heavily on what it terms as objectively verifiable data from the

market, but that still maintains the notion of property wealth gained through utility and therefore recognizes situations where true tax value will differ from market value.

75. Historically, the Tax Court has interpreted what constitutes a property's current use or a similar user broadly. For example, it reversed our determination rejecting an appraiser's sales-comparison analysis where the appraiser relied on sales to "secondary users" such as Big Lots or Hobby Lobby to value a Meijer store. We had reasoned that those secondary users were not truly comparable to Meijer. In our view, comparable users were instead entities like Lowe's or Walmart that built their own stores using their specific marketing schemes and layouts. *Meijer Stores Ltd. P'ship v. Smith,* 926 N.E.2d 1134, 1136-37 (Ind. Tax Ct. 2010). The Court, however, explained that an appraiser need only locate sales "'of comparable *properties*'" and adjust their selling prices. *Id.* at 1137 (emphasis in original) (quoting 2002 REAL PROPERTY ASSESSMENT MANUAL at 13). The Court held that it was therefore improper to discount the appraiser's sales-comparison analysis on grounds that he used sales to secondary users instead of sales to entities like Walmart. *Id.*

76. In addition to these considerations, a valuation does not reflect the true tax value of an improved property if the purportedly comparable sales "have a different market or submarket than the current use of the improved property based on a market segmentation analysis." I.C. § 6-1.1-31-6(d). Market segmentation analyses "must be conducted in conformity with generally accepted appraisal principles" and are not limited to the categories of markets and submarkets laid out in the DLGF's rules or guidance materials. *Id.*

77. As a threshold issue, we must determine whether the parties have produced sufficient evidence to establish the subject property's true tax value. *Wigwam Holdings, LLC v. Madison Cnty. Ass'r*, 125 N.E.3d 7, 12 (Ind. Tax Ct. 2019) (holding that the Board's "statutory duty as the finder of fact," is to review "the probative value" of the evidence); *see also Madison Cnty. Ass'r v. Sedd Realty*, 125 N.E.3d 676, 680 (Ind. Ct. App. 2019). There are two prongs for making that showing: (1) a party must offer objectively verifiable, market-based evidence, and (2) the valuation must comport with generally

accepted appraisal principles. *See, e.g., Piotrowski v. Shelby Cnty. 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); *Grabbe v. Duff*, 1 N.E.3d 226, 229 (Ind. Tax Ct. 2013).

78. The first prong may be satisfied with "relevant market data[,]" including "data compiled in accordance with generally accepted appraisal principles." *Howard Cnty. Ass'r v. Kokomo Mall*, 14 N.E.3d 895, 899 (Ind. Tax Ct. 2014); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2-3. As for the second prong, valuation evidence is considered consistent with "generally accepted appraisal principles" if it conforms to practices "recognized in the appraisal community as authoritative." *Meijer Stores v. Boone Cnty. Ass'r*, 162 N.E.3d 26, 32 (Ind. Tax Ct. 2020) (citing 50 IAC 30-2-4).

79. A USPAP-compliant appraisal normally will satisfy both prongs. Indeed, the Tax Court has long held that such appraisals are one of the most effective methods for rebutting an assessment's presumption of correctness. *E.g. Meijer Stores,* 926 N.E.2d at 1139. An appraisal, however, is not reliable if it substantially departs from the standards and assumptions underlying Indiana's assessment guidelines. Likewise, an appraiser's valuation opinion "must be based upon facts." *Marion Cnty. Ass'r v. Wash. Square Mall*, 46 N.E.3d 1, 12 (Ind. Tax Ct. 2015).

B. 2018 Assessment Year

80. We begin our analysis with the 2018 assessment year. As discussed above, the burden-shifting provisions of I.C. § 6-1.1-15-17.2 are not triggered and Nestlé bears the burden of proof. Both parties presented USPAP-certified appraisals from qualified experts. We have already weighed the merits of each particular appraisal above, and we will repeat those facts only as necessary. Before turning to weighing the appraisals against each other, we address one argument advanced by Nestlé.

81. Nestlé argues that Hall's appraisal, and particularly his sales-comparison approach, runs afoul of the market segmentation statute, I.C. § 6-1.1-31-6(d), because he used sales of food distribution or warehouse properties rather than food processing or manufacturing properties. Nestlé acknowledges that Vanderhook also used sales of properties that were

not food processing or manufacturing facilities, but argues that Vanderhook's were acceptable because they were cold storage facilities with similar physical characteristics to the subject property.

82. The subject property is unique because of its size, age, and physical characteristics such as its specific combination of climate-controlled, non-climate-controlled, and refrigerated spaces. Neither appraiser presented a single comparable that reflected the subject property in all these aspects. Similar users to Nestlé would be faced with the same lack of available substitute properties. For that reason, we credit Hall's testimony that similar users to Nestlé would consider purchasing non-food processing facilities and converting them to their use. It follows then that those properties do compete in the same market. And as Nestlé admits, both appraisers agreed that it was acceptable to use comparables beyond food manufacturing or processing facilities. In fact, both Vanderhook and Hall selected the same sale of a food distribution facility. These facts, coupled with the Tax Court's history of interpreting "use" broadly, leads us to conclude Hall's valuation does not violate I.C. § 6-1.1-31-6(d). Nestlé's arguments essentially amount to an argument as to the weight each appraisal should be given. While some of Vanderhook's comparables were more physically similar in some aspects, they were also much older than the subject property. We find Hall's choice to look for properties that were closer in age to the subject property but less physically similar in some aspects to be entirely appropriate.

83. We now turn to weighing the appraisals. As discussed above, we found both appraisers presented credible opinions of value, though their conclusions varied wildly. But we ultimately find Hall's opinion to be the most persuasive evidence in the record. We begin by comparing the respective cost approaches.

84. The starting point to the cost approach is developing a value for the land. Vanderhook chose not to do this, and instead merely concurred with the current assessment without performing his own independent valuation. But statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs,* 704 N.E.2d 1113,

1118 (Ind. Tax Ct. 1998). Because Vanderhook did not provide reliable evidence of the value of the land, his cost approach as a whole remains incomplete. In contrast, Hall did provide a reliable independent land valuation. In addition, Hall's conclusion (the only reliable evidence of the subject property's land value in the record) shows that the current land assessment was approximately 45% too low in 2018.[10] This demonstrates that Vanderhook's presumption was incorrect.

85. Turning to the improvements under the cost approach, we find both appraisers presented acceptable estimates of the undepreciated cost of the improvements. They also both reached similar conclusions (Vanderhook slightly higher). The primary difference in their valuations stems from their estimates of obsolescence. As discussed in our Findings of Fact, we do not find that Vanderhook sufficiently supported his external obsolescence adjustment through his "case study" method. There were simply too many variables that he did not properly verify. We also find his omission of critical supporting data from his work file reflects negatively on his credibility. We also agree with Hall that the case study method was not the best method to measure obsolescence. In contrast, we find Hall provided a sufficient estimate of functional obsolescence (although it is dependent in large part on data from his income approach), and we find his decision not to include any additional external obsolescence well-supported. For these reasons, we find Hall's conclusions under the cost approach to be persuasive and the only reliable valuation of the subject property using that method.

86. Both appraisers also developed a sales-comparison approach. We find both valuations suffered from a lack of compelling data. Vanderhook presented comparables that were significantly older than the subject property, while most Hall's comparables did not reflect the subject property in several important physical characteristics such as the amount of cold storage space. Vanderhook's comparables were slightly less deficient in this respect, though by his own admission only two of them were reasonably close to the subject property in the amount of conditioned/refrigerated space. Nestlé argued that Vanderhook more appropriately used leased fee sales than Hall, but we find no merit to

[10] This difference is even greater in the later years under appeal.

this claim given Vanderhook's admission that he did not analyze whether any of his comparables were leased at market rent. For that reason, Vanderhook's large adjustments to the leased comparables were suspect at best and undermine the reliability of his conclusions. Overall, we find both sales-comparison approaches to be probative estimates of value, but not particularly persuasive.

87. Lastly, we examine Hall's income approach, which is also the only income approach in the record. Nestlé argued that Hall should not have developed it at all based on Vanderhook's assertion that market participants would not consider it. But we find this assertion unsupported by the record as data from leased comparable facilities was considered by both appraisers. While the depth of data underlying the income approach was not ideal, we still find Hall's income approach to be a reliable estimate of the value of the subject property and conclude that Nestlé did not significantly impeach it.

88. Hall's reconciliation was supported by three reliable approaches to value (though as discussed above, Hall's cost approach is somewhat dependent on data from his income approach). Vanderhook's reconciliation is supported by only one reliable approach, the sales-comparison approach, and we do not find that approach particularly persuasive given the data presented. For these reasons, we are more persuaded by Hall's opinion. We find his reconciled conclusion of $48,000,000 to be the best evidence of the value of the subject property for the 2018 assessment date.

C. 2019-2021 Assessment Years

89. We now turn to the next three years at issue. The current 2019 assessment of $50,818,300 is more than 5% above the prior year's assessment of $48,000,000 as we just determined it. Thus, the Assessor has the burden of proof under I.C. § 6-1.1-15-17.2 to show the current assessment is exactly and precisely correct. Because Hall's conclusion of $50,000,000 does not exactly and precisely match the current assessment of $50,818,300, the Assessor fails to meet his burden of proof.

90. Next, we must examine whether Nestlé has met its burden to prove that its proffered assessment is correct as required by I.C. § 6-1.1-15-17.2(b). The Indiana Supreme Court

explained in *Southlake II* that this burden of proof includes both the burden of production and the burden of persuasion. *Id. at 180.* For the same reasons discussed in our analysis of the 2018 assessment year, we find Nestlé did meet its burden of production by presenting a minimally credible valuation opinion. But it has not met its burden of persuasion. Hall's opinion for 2019, again for the same reasons we discussed for 2018, is the most persuasive evidence in the record, and most importantly it persuades us that Vanderhook's conclusion is not correct. Thus, while Hall's opinion is insufficient to meet the Assessor's burden of proof, it is sufficient to prevent Nestlé from meeting its own burden of proof.[11] Because neither party has met its burden of proof for the 2019 assessment year, that assessment must revert to the prior year's assessment as last corrected, in this case Hall's conclusion for 2018 of $48,000,000.

91. We apply identical reasoning to the following two assessment years. The Assessor has the burden of proof for each year and fails to meet his burden because his evidence does not exactly and precisely match the current assessments. Nestlé likewise fails to meet its burden of proof because we are not persuaded that its proffered assessment is correct. Thus, the 2020 and 2021 assessments likewise revert to Hall's 2018 concluded value of $48,000,000.

D. 2022 Assessment Year

92. The 2022 assessment year brings us out of I.C. § 6-1.1-15-17.2 and into I.C. § 6-1.1-15-20. The Assessor still bears the burden of proof because the current 2022 assessment of $54,150,500 is more than 5% above the 2021 assessment as last corrected at $48,000,000. Because the Assessor is no longer required to exactly match the assessment on appeal, the assessment will only revert if the totality of the evidence is insufficient to prove any value. I.C. § 6-1.1-15-20(f). For the same reasons we discussed for 2018, we find Hall's opinion to be reliable evidence of value and the most persuasive evidence in the record. Thus, the totality of the evidence, under a preponderance of the evidence, shows the 2022

[11] Neither party advanced any argument that I.C. § 6-1.1-15-17.2, *Southlake II,* or any other decisions require us to strike or ignore an Assessor's appraisal because it does not exactly and precisely match the current assessment. Even though such evidence is insufficient to meet the burden of proof, it can still serve other purposes such as to impeach another appraisal in the record.

assessment should reflect Hall's conclusion of $57,000,000.

E. 2023 Assessment Year

93. Finally, this brings us to 2023—the last assessment year under appeal. In this year, the current assessment of $54,155,000 is less than the prior year's assessment as last corrected at $57,000,000. Therefore, the current assessment is presumed correct unless the totality of the evidence is sufficient to prove a different value. For the same reasons we discussed for 2018, we find Hall's opinion to be reliable evidence of value and the most persuasive evidence in the record. Thus, the totality of the evidence shows the 2023 assessment should reflect his conclusion of $55,000,000.

CONCLUSION

94. Overall, we find the Assessor's appraiser, David Hall, presented the most persuasive evidence of value for each of the years under appeal. Based on the applicable law, his opinions were sufficient to carry the day for the 2018, 2022, and 2023 assessment years. For 2019-2021, the assessments must revert to our conclusion for 2018 under I.C. § 6-1.1-15-17.2. Thus, we reach the following determinations of value for each of the years under appeal:

Assessment Year	Final Determination
2018	$48,000,000
2019	$48,000,000
2020	$48,000,000
2021	$48,000,000
2022	$57,000,000
2023	$55,000,000

The 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 of 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>.