

REPRESENTATIVES FOR PETITIONER: David Suess, Faegre Baker Daniels LLP
Benjamin Blair, Faegre Baker Daniels LLP

REPRESENTATIVE FOR RESPONDENT: Jess Reagan Gastineau, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

University Park Associates LLC,	)	Petitions:	49-101-12-1-4-02004-17
	)		49-101-13-1-4-02003-17
Petitioner,	)		49-101-14-1-4-02002-17
	)		49-101-15-1-4-02001-17
)		
v.	)	Parcel:	49-11-01-240-005.000-101
)		
	)	County:	Marion <i>1032304</i>
Marion County Assessor,)		
	)	Assessment Years:	2012-2015
Respondent.)		

Appeals from the Final Determinations of the
Marion County Property Tax Assessment Board of Appeals

September *X* 2019

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. The subject property is a multi-story Class A commercial office building in downtown Indianapolis. University Park Associates LLC (“University”) and the Marion County Assessor each submitted appraisals prepared in compliance with the Uniform Standards of Professional Appraisal Practice (“USPAP”). Overall, we find the Assessor’s appraiser

made significant errors that seriously undermined his credibility. In contrast, University's appraiser provided a persuasive appraisal that was not meaningfully impeached by the Assessor. Thus, we find University provided the best evidence of the true tax value of the subject property for the years at issue.

PROCEDURAL HISTORY

2. University filed Form 130 notices with the Marion County Property Tax Assessment Board of Appeals ("PTABOA") for the 2012-2015 assessment years. In the 2012-2014 tax years, the subject property contained three parcels: #1032304, #1032305, and #1032306. In 2012-2014, University only filed appeals for parcel #1032304. In 2015, the parcels were consolidated to a single parcel, #1032304. This parcel contained the land and improvements assessments for all tax years under appeal. The assessments of record are:¹

Year	Land	Improvements	Total
2012	\$ 1,239,400	\$ 36,764,200	\$ 38,003,600
2013	\$ 1,239,400	\$ 37,806,400	\$ 39,045,800
2014	\$ 1,239,400	\$ 37,065,100	\$ 38,304,500
2015	\$ 2,749,600	\$ 34,968,700	\$ 37,718,300

3. University timely filed Form 131 petitions with the Board. The Board's designated Administrative Law Judge, Timothy Schuster ("ALJ"), held a three-day hearing on October 1-3, 2018. Neither he nor the Board inspected the property. James Green and Sara Coers testified under oath for the Assessor and University, respectively.
4. The following exhibits were submitted²:

Petitioner's Ex. P-1: Appraisal Report prepared by Sara Coers,
 Petitioner's Ex. P-2: Excerpt from THE APPRAISAL OF REAL ESTATE,
 (14th ed.),

¹For 2012-2014 these assessments reflected only the parcel under appeal, not the entire property.

²University did not offer exhibits P-3, P-5, P-9, P-10, and P-11. The Assessor did not offer exhibits #2 and #7.

Petitioner's Ex. P-4:	Excerpts from the 2016-2017 UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE ("USPAP"),
Petitioner's Ex. P-6:	Cassidy Turley Office Market Snapshot 2012-2014,
Petitioner's Ex. P-7:	CBRE Market Overview 2015 Q1,
Petitioner's Ex. P-8:	Cushman & Wakefield Marketbeat 2015 Q1,
Petitioner's Ex. P-12A-D:	2012-2015 assessment comparison analyses,
Petitioner's Ex. P-13A-E:	2011-2015 Subject Property Record Cards ("PRC")
Petitioner's Ex. P-14A-D:	Form 134s and PRC for 251 E. Ohio Street, Indianapolis,
Petitioner's Ex. P-15A-I:	Form 134s and PRCs for 151 N. Delaware Street, Indianapolis,
Petitioner's Ex. P-16A-B:	PRCs for 36 S. Pennsylvania Street, Indianapolis,
Petitioner's Ex. P-17A-C:	Form 134s and PRC for 1099 N. Meridian Street, Indianapolis,
Petitioner's Ex. P-18A-B:	PRCs for 1 N. Capitol Avenue, Indianapolis,
Petitioner's Ex. P-19A-B:	PRCs for 5 E. Market Street, Indianapolis,
Petitioner's Ex. P-20A-F:	PRCs for 201 and 251 N. Illinois Street, Indianapolis,
Petitioner's Ex. P-21A-B:	PRCs for 342 Massachusetts Avenue, Indianapolis,
Petitioner's Ex. P-22A-B:	PRCs for 1 Indiana Square, Indianapolis,
Petitioner's Ex. P-23A-B:	PRCs for 46 W. New York Street, and 360 N. Meridian Street, Indianapolis,
Petitioner's Ex. P-24A:	Terzo & Bologna June 2015 sale information for 1099 N. Meridian Street, Indianapolis,
Respondent's Ex. 1:	Appraisal Report prepared by James Green,
Respondent's Ex. 3:	2012-2016 Subject PRCs,
Respondent's Ex. 4:	2012 RESIDENTIAL AND COMMERCIAL COST TABLES, OVERVIEW AND METHODOLOGY from the Indiana Department of Local Government Finance ("DLGF"),
Respondent's Ex. 5:	Appendix G, REAL PROPERTY ASSESSMENT GUIDELINES,
Respondent's Ex. 6:	DLGF memorandum dated October 31, 2014,
Respondent's Ex. 8A:	CoStar Vacancy Rate chart,
Respondent's Ex. 8B:	2012-2015 Subject Property Balance Sheet,
Respondent's Ex. 8C:	CoStar information for 501 N. Congressional Blvd., Carmel,
Respondent's Ex. 8D:	Information for comparable properties from Sara Coers' work file,

Respondent's Ex. 8E: Page 65 from Coers' appraisal of 101 W. Ohio Street, Indianapolis.

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

OBJECTIONS

6. The Assessor objected to a statement from University's counsel regarding how they obtained Green's work file, arguing that it was assuming facts not in evidence. This statement appears to relate to a discovery dispute between the parties that the Assessor previously referenced in the direct examination of Green. Because the Assessor opened the door to this discussion and University's counsel was merely responding, we overrule the objection. We note that neither party was asking the Board for any relief regarding this discovery dispute. *Tr. at 25-27; 159-60.*
7. The Assessor objected to Petitioner's Ex. P-4, excerpts from USPAP, because it was "...not correctly offered as impeachment evidence." The Assessor appears to be arguing that the evidence does not fall under the exception to hearsay found in Indiana Rule of Evidence 803(18). Because the Assessor failed to object to the document as hearsay, no such exception is necessary. Thus, the objection is overruled. *Tr. at 166-69.*
8. The Assessor also objected to exhibits P-12A through P-12D, the assessment comparison analyses, for relevance calling them a "reimagining" of Green's appraisal. In response, University noted that evidence of comparable assessments is permitted by Indiana Code § 6-1.1-15-18. We agree with University and admit the exhibits into evidence. *Tr. at 395-97.*
9. The Assessor asked Green whether another appraiser who had done a USPAP compliant appraisal would have given the same answers on cross-examination that Green did.

University objected, calling the question entirely speculative and irrelevant. The ALJ took the objection under advisement. We agree with University and sustain the objection, excluding Green's response from evidence. *Tr. at 417-19.*

10. University objected to Respondent's Ex. 8A, a CoStar vacancy report, on the grounds that it was irrelevant and not exchanged. The Assessor's counsel indicated that she had a response to the exchange objection. The ALJ asked for her response to the relevance objection first. After she gave this response, the ALJ took the objection under advisement and the hearing continued. Ultimately, it is the responsibility of the parties to ensure that all necessary arguments are made. Thus, given University's assertion that the exhibit was not exchanged and the lack of response from the Assessor, we sustain the objection and exclude the exhibit from evidence. We note that this ruling does not affect our decision, as the Assessor failed to use the document in any meaningful way. *Tr. at 587-9; 601-3.*
11. University also objected to several questions about Respondent's Ex. 8A directed to Sara Coers arguing that they were irrelevant. We find the questions meet the low standard for relevancy and overrule the objection. *Tr. at 587-9; 601-3.*
12. Finally, University objected to the relevancy of Respondent's Ex. 8B—the federal tax balance sheets for the subject property. University also made several objections to questions asked of Sara Coers about this exhibit. We find that the exhibit and testimony are minimally relevant. Therefore, we overrule the objections and admit the exhibit, as well as the related testimony, into evidence. *Tr. at 595, 597-98.*

FINDINGS OF FACT

A. The Subject Property

13. Built in 1989, the subject property is a 27-story Class A multi-tenant office building. It is located at 300 North Meridian Street in downtown Indianapolis and has a 300-space

parking garage. Sitting on 0.525 acres, the office tower contains approximately 336,000 sq. ft. of gross leasable space. The majority of leasable area is office space, but it includes approximately 8,000 sq. ft. of retail space. *Resp't. Ex. R1 at 10-12; Pet'r. Ex. P-1 at 29-30.*

B. Expert Opinions

14. James Green and Sara Coers, the appraisers, agreed on several key points for this assignment. Both appraisers valued the entire property for all years in question, including prior to 2015 when it consisted of three separate parcels. Both agreed that the goal was to find the subject property's market value-in-use of the fee simple interest. Neither appraiser developed the cost approach because of the subject property's age and the market saturation, but both appraisers considered the sales-comparison and income approaches. *Tr. at 173, 178-81, 196-97, 208-9, 296, 457, 459, 506-7, 529-30, 552-53; Resp't. Ex. 1 at 10, 69; Pet'r. Ex. P-1 at 31, 46, 60.*

1. Green's Appraisal

15. The Assessor engaged James R. Green³, a senior appraiser at Terzo & Bologna, to appraise the retrospective market value-in-use of the fee simple interest of the subject property. Green certified that he appraised the property in accordance with USPAP. He is a certified general appraiser in four states including Indiana, and holds the MAI designation from the Appraisal Institute. *Resp't. Ex. 1 at Cover letter, Addendum.*

a. Green's Research and Market Overview

16. For his property inspection, Green did not tour the entire building, but instead requested that the property representative show him an illustrative segment of the different areas and the types of spaces available. Green's goal was to see the typical office and retail finishes. He found the building to be an attractive property and one of the nicest properties in the Indianapolis Commercial Business District ("CBD"). Green noted a

³ Erick P. Landeen, MAI, also signed the appraisal.

number of higher end finishes such as cherry wood paneling and polished granite floors in the lobby. *Tr. at 35-37, 40; Resp't. Ex. 1 at 89, 158.*

17. The subject property sits in the Indianapolis metropolitan statistical area (“MSA”) and the heart of the CBD, which he described as the area between North, South, East, and West streets. He noted the subject property has desirable views of University Park. He also found that it is close to Monument Circle, which is a demand driver. Green described the area near the subject property as a “live, work, play environment” that further adds to the attractiveness of the property. *Tr. at 38-41; Resp't. Ex. 1 at 58-65.*
18. Next, Green researched the market by reviewing marketing materials for the subject property, as well as other resource databases including CoStar, Cushman & Wakefield, DTZ, and Colliers International. He also spoke to two brokers, though he did not memorialize those conversations. Because of the changing market conditions between 2012 and 2015, Green analyzed the market for each year under appeal. He looked at a number of factors related to office space including demand, distribution, pipeline activity, and vacancy/absorption. *Tr. at 41-47; 270; Resp't. Ex. R1 at 4; 68-81.*

b. Green’s Income Capitalization Approach

19. Green began his income capitalization approach by estimating market rent. He looked for recent leases of properties that were physically similar and in close proximity to the subject property. He divided his search into two parts--leases of office space, and leases of commercial space. *Tr. at 50-53; Resp't. Ex. 1 at 89-126.*
20. For his office comparables, Green presented 12 leases for downtown office spaces, but he used only five of those leases for any particular valuation date. Green adjusted the leases for market conditions, tenant expenses, lease length/escalator, location, physical characteristics, and other non-realty components such as tenant improvement allowances. Although Green described most of his adjustments as qualitative, he applied them as

numerical percentages to the lease rates. With the exception of his market conditions adjustments, he admitted that he did not have any specific data such as a paired sales analysis to support his figures. Rather, they were based on “conversations with brokers and leasing professionals”⁴ as well as his judgment based on differences between the subject property and the comparables. *Tr. at 60-71, 228-33; Resp’t Ex. 1 at 89-126.*

21. Green considered adjustments for view premium, which is typically an upward adjustment for the upper floors of a high-rise because that space is more desirable. But based on conversations with brokers he learned that they are not always used in the market. For this reason, he determined he could not confidently apply them here. He also noted that the subject property has listings that do not show a difference in the asking rate based on floor. *Tr. at 412-13.*

22. After reconciling his adjusted rent comparables, he arrived at the following values for office rent:

Year	Rent/sq. ft.
2012	\$20.00
2013	\$20.25
2014	\$20.50
2015	\$20.75

Based on conversations with two brokers, he determined that the basement office space should receive a 35% discount from his market rent conclusions. [REDACTED]

[REDACTED]

[REDACTED] *Tr. at 72-83; Resp’t Ex. 1 at 118-25.*

23. Next, Green estimated lease rates for the commercial retail portion of the property. Although he had a difficult time obtaining lease information, he presented four

⁴ This statement was somewhat inconsistent with his deposition, where he stated that he did not base his adjustments on any market data. *Tr. at 229-32.*

comparable rentals. The lease rates ranged from \$18.00 to \$40.00 per sq. ft. He adjusted the comparables for market conditions, tenant expenses, location, condition/appeal, quality of improvements, functional utility, and tenant improvements. He testified that he had the same support for his retail rent adjustments as his office rent adjustments. The adjusted rental rates ranged from \$20.73/sq. ft. to \$23.52/sq. ft., depending on the year at issue. Green admitted that an adjustment to one comparable for tenant expenses was wrong in all four years. He erred by adjusting upward by 31% rather than downward by 31%. He testified that the correct adjustment would lead to an adjusted rate of \$12-13/sq. ft. In his appraisal report, he gave weight to three of his four comparables in his reconciliation, including the comparable with the erroneous adjustment. At the hearing, he testified that he now disregarded that comparable, but it did not change his opinion on retail market rent. He ultimately concluded to the following retail rents:

Year	Rent/sq. ft.
2012	\$21.00
2013	\$21.00
2014	\$21.25
2015	\$21.50

Tr. at 85-102, 272-73, 277-85; Resp't. Ex. 1 at 126-144.

24. Green also concluded that the subject property would earn additional income from leasing storage, utility access, and rooftop space. [REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Tr.

at 103-106; Resp't. Ex. 1 at 144, 146, 154-157.

25. In addition, Green estimated income for the subject property's in-building parking garage. He began by researching historical data for ten nearby parking garages. Based

on the four geographically closest parking garages, Green estimated a monthly rate of \$130 to \$150 per space. For 2015, he settled on \$140 per month per parking space and used this figure to estimate the other years. The garage contains 300 spaces, so the 2015 income stream was \$445,000⁵. [REDACTED]

[REDACTED] As a result, he found garage income to be:

Year	Amount (\$)
2012	\$419,334
2013	\$427,721
2014	\$436,275
2015	\$445,000

Tr. at 107-110; Resp't. Ex. 1 at 145.

26. Green also estimated reimbursement income. He explained that the typical lease structure for a property like the subject was a full service lease with a base stop. With this type of lease the landlord is responsible for expenses, such as common areas and utilities, up to a certain point (or "stop"), often on a dollar per square foot basis. If the expenses exceed the stop, the tenant must reimburse the landlord in that amount. *Tr. at 54-59; Resp't. Ex. 1 at 89-126.*

27. He then posited that a tenant's reimbursements for expenses should be estimated as income. [REDACTED]

[REDACTED] He then projected that expenses would increase at 2.7% per year. He next calculated the increase of expenses over two and a half years because that was the midpoint of a typical office lease.⁶ Finally, Green applied that

⁵ (((\$140 x 12 mo. X 300 spaces) x 0.88 occupancy) (rounded).

⁶ He initially cited Chapter 26 of the *Appraisal of Real Estate* to support this position, but on cross-examination he conceded that this chapter did not support projecting future income and expenses outside a discounted cash flow analysis, which he did not perform. *Tr. at 320, 393-94.*

additional expense as reimbursement income in the following amounts:

Year	Amount (\$)
2012	\$219,363
2013	\$219,363
2014	\$239,007
2015	\$239,007

Tr. at 114-120, 320, 393-94; Resp't. Ex. 1 at 154-157, Annex.

28. Because the retail portion of the subject property would typically be rented on a triple net basis, Green determined that he needed to apply reimbursement income for its share of expenses based on 2.413% of the rentable square footage being devoted to retail space. This calculation yielded the following amounts of retail reimbursement income:

Year	Amount (\$)
2012	\$78,334
2013	\$76,784
2014	\$77,759
2015	\$80,934

Tr. at 114-120; Resp't. Ex. 1 at 154-157, Annex.

29. To develop his vacancy rate, Green looked to a variety of market data. He ultimately focused on Cassidy Turley/DTZ data for downtown and Class A downtown properties, CoStar data for 18 Class A properties in the CBD, [REDACTED] [REDACTED]. At the time he performed his appraisal, Green did not have the subject property's actual vacancy for 2012 or 2013. Green concluded that the subject property would have lower vacancy because of "the subject's prime location along N. Meridian Street and just north of Monument Circle." The reported vacancy rates, as well as Green's conclusions, are summarized below:

Year	Cassidy Turley/DTZ Downtown	Cassidy Turley/DTZ Downtown Class A	CoStar Class A CBD	Actual	Green
2012	18.9%	19.5%	15.3%	██████	12%
2013	19.1%	21.1%	13.9%	██████	12%
2014	20.3%	21.4%	13.5%	██████	12%
2015	20.3%	N/A	13.8%	██████	12%

Tr. at 110, 295-312; Pet'r Ex. P-1 at 107; Resp't Ex. 1 at 68-82, 146.

30. Green added 1% for collection loss to arrive at a total vacancy and collection loss of 13% for all years under appeal. After applying that rate, Green estimated the following for effective gross income:

Year	EGI (\$)
2012	\$6,493,171
2013	\$6,570,720
2014	\$6,669,497
2015	\$6,753,269

Tr. at 41-46, 270; Resp't. Ex. 1 at 68-82, 154-157.

31. Turning to the expense analysis, Green noted that he did not include taxes because they were loaded into the capitalization rate. Nor did he include replacement allowance because he counted it implicitly in his capitalization rate. Green used five comparable properties, actual expense numbers, and PriceWaterhouseCoopers surveys from the quarter preceding each assessment date to forecast expenses. He observed some expense growth from 2013 to 2014, and 2014 to 2015. Green did not identify the comparable properties used for expenses in his report. This resulted in expenses ranging from approximately \$6.13/sq. ft. to \$6.50/sq. ft. depending on the year at issue. *Tr. at 111-15, 250; Resp't. Ex. 1 at 146-150.*

32. After applying expenses, Green estimated his net operating income ("NOI"):

Year	NOI (\$)
2012	\$4,434,287
2013	\$4,508,734
2014	\$4,559,842
2015	\$4,566,280

Resp't. Ex. 1 at 146-150.

33. To develop his capitalization rate, Green examined six leased fee sales of comparable properties in the Indianapolis area as well as various investor surveys. Green admitted that he reported the NOI of only one of the six sales in his appraisal. In addition, Green could not recall whether he or someone else had calculated the capitalization rates. These rates ranged from 7.67% to 12.97%. Green analyzed each sale to determine whether the rate for the subject property would be above or below each comparable's rate. Notably, he determined that one sale indicated that the subject's capitalization rate would be above 8.4% for 2013-2015. *Tr. at 120-131, 147, 331-35; Resp't. Ex. 1 at 150-53.*
34. Green also looked to investor surveys. He concluded that "the RERC data is probably the strongest indicators for my subject." But he admitted that (1) he did not know what markets were included in the survey, (2) he did not know whether the data was based on actual or anticipated transactions, and (3) he did not know if it included standalone properties or portfolios. For all the years at issue, the RERC rates ranged from 5.00% to 14.02%, with the averages ranging from 7.5% to 9.10%. *Tr. at 120-131, 147, 331-35; Resp't. Ex. 1 at 150-53.*
35. He ultimately selected the following capitalization rates:

Year	Rate
2012	8.50%
2013	8.25%
2014	8.25%
2015	8.0%

Resp't. Ex. 1 at 153.

36. He loaded the cap rates with the applicable tax rates for each year to arrive at loaded cap rates of 11.848%, 11.205%, 11.171%, and 11.027% for 2012-2015, respectively. Finally, Green applied his cap rates to his NOI for each year to arrive at the following rounded conclusions of value under the income approach:

Year	Value (\$)
2012	\$37,400,000
2013	\$40,200,000
2014	\$40,800,000
2015	\$41,400,000

Resp't. Ex. 1 at 154-57.

c. Green's Sales-Comparison Approach

37. In the sales-comparison approach, Green looked for sales close to the valuation date but not beyond. He ultimately selected nine comparable properties from the CBD. The properties sold between April 2006 and September 2014 for between \$56.31 and \$105.32 per sq. ft. He used only four or five of the sales for any particular date of value. *Tr. at 134; Resp't. Ex. 1 at 158-177.*
38. One of Green's comparables sold in March of 2007 for \$105.32/sq. ft. Green used this comparable for the 2012 and 2013 assessment dates and gave it the most weight. The same comparable also sold in 2013 as part of a foreclosure. It then sold again in June

2015 for approximately \$77.53/sq. ft. Green did not rely on this sale because it was after the valuation dates at issue and he felt the 2013 foreclosure sale could have impacted the motivations of the buyer and seller in the 2015 sale. *Tr. at 365-69, 409-10, 420-22; Pet'r Ex. 24A; Resp't Ex. 1 at 181.*

39. Green made transactional adjustments for expenses after purchase and market conditions. Based on conversations with two brokers he determined that the properties were leased at market levels, and thus required no adjustment for a fee simple valuation. *Tr. at 135-36, 409-10; Resp't. Ex. 1 at 178-88; Pet'r. Ex. 24-A.*

40. In addition, Green adjusted for location, physical characteristics, quality of improvements, parking, and economic characteristics. With the exception of the parking adjustments, Green admitted that he had no specific support for any of his figures, just as in his lease adjustments. After adjustment, his sale prices ranged from \$61.94 to \$126.82 per sq. ft. He reconciled these to arrive at values of \$90.00 to \$120.00 per sq. ft. depending on the year at issue. Finally, he applied these values to the subject property's leasable square footage to arrive at the following rounded conclusions under the sales-comparison approach:

Year	Price/sq. ft.	Conclusion (rounded)
2012	\$90.00	\$30,300,000
2013	\$95.00	\$31,900,000
2014	\$110.00	\$37,000,000
2015	\$120.00	\$40,400,000

Tr. at 135-52, 359-73, 409-410; Resp't. Ex. 1 at 179-88.

d. Green's Reconciliation

41. In his reconciliation, Green gave primary weight to the income approach. He noted that the sales-comparison approach was not as reliable because it relied on sales that were older or of dissimilar properties, particularly in the earlier years. He did find the sales-

comparison approach was supportive of his income approach for 2014 and 2015. He ultimately reconciled to values identical to those he concluded to under the income approach. These were:

Year	Value (\$)
2012	\$37,400,000
2013	\$40,200,000
2014	\$40,800,000
2015	\$41,400,000

Tr. at 152-57; Resp't. Ex. 1 at 188-89.

2. Coers' Appraisal

42. University engaged Sara Coers, Senior Vice President of Pillar Valuation Group, to appraise the retrospective market value-in-use of the fee simple interest of the subject property. Coers certified her appraisal is compliant with USPAP. She is a certified general appraiser in Indiana and Ohio, holds the MAI designation, and is a Level II assessor-appraiser. Additionally, Coers has performed at least five appraisals for tax purposes on other downtown Indianapolis office buildings. Like Green, Coers developed the income approach. She also developed, but did not reconcile the sale-comparison approach for this assignment. *Tr. at 438-59; Pet'r. Ex. P-1 at 2-3, 130-35.*

a. Coers' Research and Market Overview

43. Coers began by researching the subject property and the local market. She inspected the property with the goal of seeing examples of the best, worst, and average spaces. Coers described the subject property's neighborhood as the Mile Square neighborhood. She noted the subject property primarily competes with office space downtown, but it draws workers from Marion County and the larger Indianapolis MSA. Coers commented that the suburban market often outperforms the CBD because properties are often newer and have better occupancy. In addition, Class A suburban properties offer amenities that their CBD counterparts do not have, such as free parking. She also noted there was rising

interest in Class C CBD properties because they may include amenities like free parking, and frequently offer easier ingress and egress between the office and the street. As a result, market participants will consider a broader swath of properties when looking for potential income streams. *Tr. at 444-60, 467-68; Pet'r. Ex. P-1 at 41.*

44. Coers analyzed unemployment factors, availability rate of office space, absorption, and construction deliveries. Like Green, she found the office space market was oversaturated with little new construction. Related to this, Coers noted a number of concessions offered by landlords to tenants because of a weak market. *Tr. at 460-66, 474-76; Pet'r. Ex. P-1 at 42-46, 56.*
45. Based on her experience, Coers found the subject property to be typical as compared to other Class A downtown office spaces. She did find a number of items of deferred maintenance including joint sealers, the rooftop dome, and the elevators. She estimated repair costs for these items in order to include them as replacement allowances in her income approach. *Tr. at 468-474; Pet'r. Ex. P-1 at 55-56.*

b. Coers's Sales-Comparison Approach

46. Because she believed that buyers of the subject property would primarily be interested in the income stream, Coers did not fully develop the sales-comparison approach. Instead, she used it as secondary support for her income approach. In addition, she relied in part on her sales-comparison approach to develop her capitalization rates for her income approach. *Tr. at 476-80, 490-91; Pet'r. Ex. P-1 at 58.*
47. Coers selected eight comparable properties from the Indianapolis MSA. She stated that due to insufficient data in the downtown market, she broadened her search to the suburbs to find similar quality investments. She ultimately selected eight properties: four from downtown and four from other parts of the MSA. They sold between December 2009 and February 2015 for between \$68.78 and \$184.73 per sq. ft. *Tr. at 482-91; Pet'r. Ex.*

P-1 at 62-80; Resp't. Ex. 1 at 179-88

48. Coers gave the most weight to the sales with the closest NOIs to her estimates for the subject property after accounting for taxes. Based on these sales, she determined that the subject property should sell for approximately \$75 to \$95 per sq. ft. *Tr. at 482-91; Pet'r. Ex. P-1 at 62-80; Resp't. Ex. 1 at 179-88.*

c. Coers' Income Capitalization Approach

49. To begin her income approach, Coers reviewed historical information for the subject property. This included reviewing leases, parking income, and expenses. She noted that the [REDACTED]

[REDACTED] For this reason, she did not consider it to be reliable market evidence. *Tr. at 494-99; Pet'r. Ex. P-1 at 81-84.*

50. Instead, Coers looked for other leases of downtown office space. She examined 80 leases ranging in time from February 2011 to June 2015 for 16 different properties including the subject. She found that full service or base stop leases are the most common. Given the volume of data, Coers felt it was more appropriate to qualitatively compare the rental rates to the subject property rather than make individual adjustments to each lease. She also determined that different floors of the subject property would command different rent. Therefore, she made separate estimates for upper floors, lower floors, street level/retail, and lower level/basement. In addition to the office leases, she also reviewed a number of retail leases, as well as CoStar gross asking rents from 2007-2016. She came to the following base rent totals for 2012-2015:

2012	Rent/sq. ft.
Upper Floors	\$19.50
Lower Floors	\$12.00
Street Visible Retail	\$20.50
Lower level/basement	\$9.50

2013	Rent/sq. ft.
Upper Floors	\$20.00
Lower Floors	\$12.00
Street Visible Retail	\$21.00
Lower level/basement	\$9.50

2014	Rent/sq. ft.
Upper Floors	\$20.50
Lower Floors	\$13.00
Street Visible Retail	\$21.50
Lower level/basement	\$10.00

2015	Rent/sq. ft.
Upper Floors	\$21.00
Lower Floors	\$13.00
Street Visible Retail	\$21.50
Lower level/basement	\$10.00

Tr. at 497-523; Pet'r. Ex. P-1 at 85-92, 103-6.

51. Coers then estimated parking and other miscellaneous income such as antenna and equipment room rental. [REDACTED] She also noted that she did not include any expense reimbursements because they were unnecessary when applying the market rent for each particular year. *Tr. at 521-29; Pet'r Ex. P-1 at 105-06.*

52. For vacancy, Coers reviewed market surveys [REDACTED] [REDACTED] The surveys included data from downtown offices, Class A downtown offices, and CBD offices. They showed vacancy rates ranged from 17.4% to 21.7%, depending on the year at issue. Finally, she reviewed availability data from CoStar. After accounting for estimated collection loss, she concluded to vacancy and collection loss rates of 19% for 2012 and 2013, and 18.5% for 2014 and 2015.⁷ *Tr. at 529-38; Pet'r. Exs. P-1 at 107-9; P-6, P-7, P-8.*

⁷ Coers' report does not include breakdowns of vacancy or collection loss individually.

53. After applying vacancy and collection loss, Coers reached the following conclusions for effective gross income:

Year	EGI (\$)
2012	\$5,670,828
2013	\$5,796,641
2014	\$5,969,699
2015	\$6,102,866

Pet'r. Ex. P-1 at 117-20.

54. For expenses, Coers reviewed the historical data, the Institute for Real Estate Management's survey, and other downtown office properties. These sources included data on insurance, common area maintenance, utilities, janitorial expenses, management fees, maintenance and repairs, and administrative expenses. Coers reconciled the data to expense estimates of \$6.46-\$6.52/sq. ft. for the subject property before taxes and reserves. She noted this estimate fell within the range of other downtown office properties. *Tr. at 539-42; Pet'r. Ex. P-1 at 110-16.*
55. Coers also considered replacement allowances for the subject property as a way to account for major capital expenditures using an annual rate. Capital expenses are large periodic expenses that a property incurs over time. Coers elected to include these as a line item expense as opposed to including it in her capitalization rate. Based on data from RealtyRates.com, as well as quotes she obtained for specific repairs the subject property needed, she concluded to replacement allowances of \$0.50/sq. ft. in 2012-13 and \$0.52/sq. ft. in 2014-15. *Tr. at 542-50; Pet'r. Exs. P-1 at 110-20; P-2.*
56. After accounting for vacancy and collection loss, and operating expenses, Coers estimated the following net operating incomes for the subject property:

Year	NOI (\$)
2012	\$3,327,164
2013	\$3,447,316
2014	\$3,605,850
2015	\$3,733,024

Pet'r. Ex. P-1 at 117-20.

57. Next, Coers estimated capitalization rates. She began by examining eight sales of leased properties from the Indianapolis MSA. These properties sold between December 2009 and February 2015 with capitalization rates ranging from 7.78% to 13.04%. Coers also reviewed investor surveys from RealtyRates.com, RERC, and PriceWaterhouseCoopers. These surveys reported average rates ranging from 5.50% to 12.44%, depending on the year surveyed. Coers relied primarily on the two sales she felt were most comparable to the subject. These sales had rates of 9.18% and 7.78%. She relied on the survey data as evidence of trends and expectations for the market. She concluded to capitalization rates ranging from 7.75%-9.0%. She then added in the applicable tax rates to arrive at the following loaded capitalization rates:

Year	Cap rate	Tax rate	Loaded Rate (rounded)
2012	9.00%	3.2433%	12.24%
2013	8.50%	2.955%	11.46%
2014	8.00%	2.9210%	10.92%
2015	7.75%	3.0278%	10.78%

Tr. at 552-56, 579, 605-6; Pet'r. Ex. P-1 at 121-25.

58. Finally, Coers applied the loaded capitalization rates to her NOI for each year to reach a conclusions of value under the income approach:

Year	Value (\$) (rounded)
2012	\$ 27,180,000
2013	\$ 30,090,000
2014	\$ 33,020,000
2015	\$ 34,640,000

Tr. at 558-59; Pet'r. Ex. P-1 at 125-26.

d. Coers' Reconciliation

59. As discussed above, Coers found that buyers of buildings like the subject would focus on their income stream and return on investment. For that reason, she found the income approach to be the best representation of the actions of market participants and the sales-comparison approach to be less relevant. Consequently, she reconciled to values identical with her conclusions from the income approach:

Year	Value (\$)
2012	\$27,180,000
2013	\$30,090,000
2014	\$33,020,000
2015	\$34,640,000

Tr. at 559-60; Pet'r. Ex. P-1 at 48-9, 127-28.

C. Other Evidence

60. University, through counsel, introduced an analysis based on Indiana Code § 6-1.1-15-18 which permits the introduction of the assessments of certain comparable properties. University took the assessed values for Green's nine comparable properties and divided their assessments by the gross square footage of each building to find a ratio of assessed value ("AV") to gross building square footage—AV/sq. ft. University then applied Green's location and property characteristic adjustments, excluding each property's parking garage. Finally, University calculated figures for (1) unadjusted average AV/sq. ft., (2) unadjusted median AV/sq. ft., (3) adjusted average AV/sq. ft., and (4) adjusted

median AV/sq. ft. for each tax year in question. *Tr. at 631-37; Pet'r. Exs. P-12A-D.*

61. University performed the same process for the parking garage, but did not apply Green's adjustments. After adding the figures from the parking garage to the adjusted average and median AV/sq. ft. figures, University arrived at indicated values for the subject property under its assessment approach ranging from \$24,129,000 to \$26,901,700, depending on the method and the year at issue. *Tr. at 631-37; Pet'r. Exs. P-12A-D.*

CONCLUSIONS OF LAW AND ANALYSIS

A. Burden of Proof

62. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See* I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b). Here, the parties agreed the Assessor had the burden of proof for the 2012 assessment. The burden for each succeeding year turns on our decision for the prior year. Where both parties offer probative appraisals from qualified experts, the question is largely theoretical. Thus, we must determine what evidence is most persuasive.

B. True Tax Value

63. Given the mandates from the Indiana Supreme Court and the Legislature, the Department of Local Government Finance ("DLGF") created a valuation standard that relies heavily

on what it terms as objectively verifiable data from the market, but still maintains the notion of property wealth gained through utility. Indiana assesses property based on its “true tax value,” which is determined under the rules of the 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) and (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 REAL PROPERTY ASSESSMENT MANUAL AT 2. Evidence in an assessment appeal should be consistent with that standard. For example, a USPAP-compliant market-value-in-use appraisal often will be probative. *See id*; *see also, Kooshtard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005).

64. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property’s value as of the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2012 through 2015, the valuation dates were March 1 in each year respectively. Ind. Code § 6-1.1-2-1.5(a).

C. Expert Opinions

65. Both Green and Coers placed primary weight on the income approach in their conclusions while giving the sales-comparison approach secondary consideration. Neither appraiser found the cost approach to be applicable. Thus, our decision largely turns on the relative merits of each appraiser’s income approach.

1. Green’s Appraisal

66. As discussed above, Green performed the income and sales-comparison approaches. Both of these analyses suffered from significant flaws. In many cases Green either lacked data to support his conclusions or presented data that supported a different

conclusion. In addition, Green made serious errors that undermined both his credibility and his conclusions. We examine each approach in turn.

67. Green acknowledged that his sales-comparison approach had limited reliability for the 2012 and 2013 assessment years. We agree with that conclusion. But because he felt it had some reliability for the 2014 and 2015 assessment years we will address it.
68. University made several significant criticisms of Green's sales-comparison approach. First, University argued that Green erroneously used leased fee sales without adjustment. We agree that Green provided scant support for his conclusions that the sales were leased at market rates. But we do not find this seriously undermines his conclusions given that both appraisers agreed the market was primarily made up of investors and there was no evidence to show they were not leased at market rates.
69. More concerning is the question of whether Green's sales were in fact sufficiently comparable. Many of the sales required significant adjustments, but Green provided little support for those adjustments. That point, coupled with the fact that Green's data was meager to begin with, leads us to doubt the reliability of his conclusions.
70. Finally, as noted above, one of Green's comparables resold in 2015, approximately three months after the last valuation date, for significantly less than the 2007 sale Green relied on. Green stated that he did not rely on the more recent sale because it was after the valuation dates at issue and because the property had previously sold in foreclosure. We do not find the foreclosure sale necessarily undercuts the reliability of the subsequent sale. It is possible that under these circumstances more investigation would have been necessary. But dismissing the sale on the mere speculation that it could have been impacted by a previous foreclosure sale is not persuasive and leads us to doubt the reliability of his sales-comparison approach.

71. Green also stated that he did not rely on the sale because it was after the valuation dates at issue. Appraisers are experts in their field, and it is within their discretion whether to use a sale from after the valuation date at issue. But both USPAP and Indiana Law permit the use of sales after the valuation date. *See Marion Cnty. Assessor v. Simon DeBartolo Grp., LP*, 52 N.E.3d 65, 70 (Ind. Tax Ct. 2016) (allowing the use of present day property values that were related back to the appropriate valuation dates.) Even if Green did not believe it was appropriate to use that sale as a comparable, it should have at least led him to question the reliability of his 2007, pre-recession, sale—especially given the large disparity in the sale prices. The fact that it did not significantly undermines Green’s credibility.
72. With these problems, as well as Green’s own admission that his sales-comparison approach was less reliable, we do not find it to be persuasive evidence of the true tax value of the subject property.
73. We now turn to Green’s income approach. As with his sales comparison approach, Green provided little support for his adjustments. When pressed, he generally pointed to his experience and conversations with two brokers. We agree with University that this is not particularly persuasive. But we note that Coers chose not to adjust her comparables at all. Instead, she felt it was more appropriate to qualitatively compare the comparables to the subject in her reconciliation. Green’s decision to put figures for those adjustments on paper, while not particularly persuasive, is at least more transparent than Coers’ method. Ultimately, there are more significant problems with Green’s income approach.
74. Green developed one rent figure for all the aboveground office square footage in the subject property because he felt he did not have enough evidence to adjust for view premium. He also noted that the subject property’s asking rates did not differ by floor. Conversely, Coers presented a significant amount of data to support her conclusions that the lower floors would command less rent. Ultimately, we are more persuaded by Coers on this issue. Thus, we find Green likely overstated the office rent by applying the same

rent/sq. ft. to the lower floors as he did to the upper floors.

75. Next, we turn to Green's retail rent estimates. At the hearing, Green admitted that he made a significant error by adjusting one comparable upward by 31% rather than his intended downward adjustment. This mistake resulted in an adjusted rent/sq. ft. over 60% higher than it should have been. The flawed comparable was one of three that Green primarily relied on to reach his conclusions for retail rent. When he discovered this error, he did not revise his opinion of retail rent. Instead, he decided to disregard this comparable. We find this decision extremely problematic. Green's retail rent estimates were already based on just three comparables. Upon the discovery that 1/3 of this data indicated a significantly different conclusion, Green disregarded it. This cavalier dismissal of evidence that did not support his conclusions leads us to seriously question Green's credibility.

76. University argued that Green improperly included between \$219,000 and \$239,000 (rounded) in office expense reimbursements in his income estimates. Green provided little support for his inclusion of two and a half years of income, even having to backtrack on his claim that there was support for his method in *The Appraisal of Real Estate*. In addition, Green's market expenses, \$6.12/sq. ft. to \$6.50/sq. ft., [REDACTED]
[REDACTED]
[REDACTED] By doing this, Green clearly overestimated the subject property's income, and thus, its value. We also find that this decision significantly undercuts Green's credibility.

77. We also agree with University's criticisms about Green's vacancy/collection loss rates. Green used the same vacancy rate of 12% for all four years in question. He appears to underestimate vacancy because his conclusions do not logically follow large portions of his own data. The surveys Green provided show a downtown Class A office space vacancy ranging from 19.5% to 21.4% for the 2012-2015 assessment years. Although

Green provided additional data that showed lower vacancy rates, that data was from broader markets with significantly less resemblance to the subject property. In addition, Green stated [REDACTED]

[REDACTED] Overall, the data Green provided for his vacancy estimates do not support his conclusions.

78. Finally, we discuss Green's choice of capitalization rates. As discussed above, Green claimed that replacement allowances were included implicitly in his capitalization rates. While that is certainly possible, Green's lack of knowledge about the data supporting his capitalization rates leads us to doubt that he could say that with any confidence. We do note, however, that both appraisers arrived at similar rates.

2. Coers' Appraisal

79. Coers did not fully develop the sales-comparison approach, nor did she rely on it. We agree that her sales-comparison approach had limited reliability. Thus, we focus our analysis on her income approach.
80. The Assessor criticized Coers for not adjusting her leases in the income approach, arguing that it was required by USPAP and the Indiana Tax Court. While we agree that appraisers must consider the relevant differences between any comparables and the subject, we disagree that they are required to include an adjustment grid like the one Green presented. And as discussed above, while we find Green's method to be more transparent, his adjustments were largely unsupported and, consequently, no more reliable than Coers' choice not to make adjustments. Overall, Coers presented substantially more data than Green did. And she was able to draw logical inferences from her data to her conclusions. Thus, we find Coers' income estimates reliable.
81. The Assessor also criticized Coers' choice of capitalization rates because she used four

suburban properties, including at least one Class B property. We agree that these were not great sources of data for the subject property. But as Coers explained, she was limited by the data available. Based on her testimony, we find it was appropriate for Coers to expand her search to less similar properties. More importantly, when reconciling her capitalization rates, Coers placed the most weight on more similar properties. Overall, we find Coers' capitalization rates to be reasonable.

82. Finally, the Assessor argued that Coers' appraisal was deficient because she did not fully develop the sale-comparison approach, arguing that USPAP requires reconciling different approaches. Although Coers considered all three approaches, she determined that the income approach was the only reliable approach for a property like the subject. Under these circumstances, a single approach is enough to establish a value.

D. Assessment Comparison Analysis

83. Finally, we address University's assessment comparison analysis. We first note that although Ind. Code § 6-1.1-15-18 allows the introduction of assessment evidence, it does not state what weight should be given to that evidence. In this case, where we have two appraisals from qualified experts, an assessment comparison that was not prepared by an expert analysis is less persuasive. Moreover, the analysis is premised on using Green's adjustments, which University itself argued were unsupported. Thus, we give little weight to this evidence.

E. Conclusions

84. Both parties ask the Board to adopt the reconciled values of their respective appraisers. As explained above, Green's appraisal suffered from a number of significant problems. Several of these problems were egregious enough that they lead us to seriously question his credibility and his overall conclusions. Conversely, Coers presented a reliable appraisal with significantly more supporting data. In addition, the Assessor was unable

to impeach Coers on any particular point. Thus, we find Coers' estimates of the subject property's true tax value for the years at issue to be the most reliable evidence before us.

F. Results

85. As discussed above, for the 2012-2014 tax years, three parcels made up the subject property, but only one was appealed. The parcels were consolidated into a single parcel starting with the 2015 tax year. Here, both appraisers agreed the entire property was a single economic unit for all years in question. In order to avoid double taxation, University proposed that the Board subtract the assessed values of the two parcels not under appeal from Coers' opinions of value. Those parcels were valued at:

Parcel No.	Year	Value
1032305	2012	\$471,200
	2013	\$471,200
	2014	\$471,200

Parcel No.	Year	Value
1032306	2012	\$1,039,000
	2013	\$1,039,000
	2014	\$1,039,000

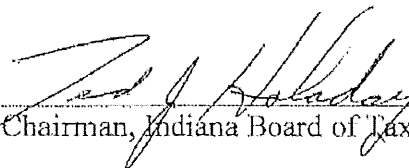
Coers' conclusions were:

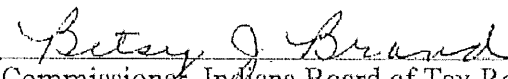
Year	Value
2012	\$27,180,000
2013	\$30,090,000
2014	\$33,020,000
2015	\$34,640,000

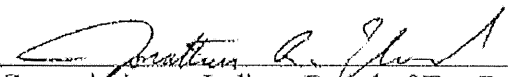
86. In his brief, the Assessor argued that University's requested values are not supported by Coers' conclusions. But it is unclear whether the Assessor understood why University requested the values it did. We agree with University's solution. Thus, we order the assessment for the parcel under appeal for 2012-2014, Parcel #1032304, changed to reflect Coers' conclusions less the current assessments for the other two parcels. For 2015, we order the assessment for the consolidated parcel to reflect Coers' conclusion for that year. This results in the following assessments:

Year	Value
2012	\$25,669,800
2013	\$28,579,800
2014	\$31,509,800
2015	\$34,640,000

The Assessments are changed accordingly. 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>.