REPRESENTATIVE FOR PETITIONER: Paul M. Jones Jr., Attorney at Law

REPRESENTATIVES FOR RESPONDENT: Brian Cusimano, Attorney at Law;
Marilyn Meighen, Attorney at Law

BEFORE THE
INDIANA BOARD OF TAX REVIEW

CVS CORPORATION #6638-02,	)	
	)	Petition Nos.: see attached
Petitioner,	)	
	)	Parcel Nos.: see attached
v.	)	
	)	
MADISON COUNTY ASSESSOR,	)	
	)	Assessment Years: 2010-2016
Respondent.	)	
	)	

October 15, 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. As is true with many assessment appeals, these appeals call on us to determine which of two competing valuation opinions we find most credible. Each side offered opinions from a highly qualified expert who valued the property for general retail use. While each expert's opinions had their own strengths and weaknesses, we find the opinions of the Madison County Assessor's expert more credible.

PROCEDURAL HISTORY

2. After exhausting the appeal procedures before the Madison County Property Tax Assessment Board of Appeals, CVS filed form 131 petitions with us contesting its 2010-2016 assessments. Those assessments are for the following amounts:

Assessment Date	Value
March 1, 2010	$1,137,200
March 1, 2011	$1,137,200
March 1, 2012	$1,133,800
March 1, 2013	$1,195,200
March 1, 2014	$1,195,200
March 1, 2015	$1,194,900
January 1, 2016	$1,200,100

3. On December 11, 2018, our designated administrative law judge, David Pardo ("ALJ"), held a hearing on the petitions. Neither he nor the Board inspected the property.

4. Brian Cusimano represented the Assessor at the hearing. Paul Jones represented CVS. As part of their appeal management plan, the parties agreed to incorporate the record, including all testimony and exhibits, from earlier appeals by CVS Corp. #6618-02, CVS Corp. #6656-02, and CVS Corp. #6640-02. The following people were sworn as witnesses at one or more of the hearings: Laurence Allen, David Hall, Tony Orlando, and Madison County Assessor Larry Davis.

5. CVS offered the following exhibits, which include exhibits incorporated from the earlier hearings:

Exhibit A	Appraisal report by Laurence Allen for CVS #6618-02
Exhibit B	Property Record Card ("PRC") for CVS #6618-02
Exhibit C	CBRE listing for 128 W. 14th Street
Exhibit D	PRC for 1323 Jackson Street
Exhibit E	PRC for 3736 S. Scatterfield Road
Exhibit F	PRC for 318 S. Scatterfield Road
Exhibit G	Excerpts from Marshall Valuation Service
Exhibit H	CoStar and LoopNet reports for 620 W. Washington Center Rd. Ft. Wayne
Exhibit I	Esri Traffic Count Map Sale 1
Exhibit J	Esri Traffic Count Map Sale 2

Exhibit K	Esri Traffic Count Map Sale 3
Exhibit L	Esri Traffic Count Map Sale 4
Exhibit M	Esri Traffic Count Map Sale 5
Exhibit N	Esri Traffic Count Map Sale 6
Exhibit O	Allen appraisal report for CVS #6656-02
Exhibit P	PRC for CVS 6656-02
Exhibit Q	Allen appraisal report for CVS #6640-02
Exhibit R	PRC for CVS #6640-02
Exhibit S	Allen appraisal report for CVS #6638-02
Exhibit T	PRC for CVS #6638-02

6. The Assessor offered the following exhibits:

Exhibit 1	Appraisal report by David Hall and Michael Lady for CVS #6618-02
Exhibit 2	Excerpt from Marshall Valuation Service
Exhibit 3	Aerial map with photograph of 17549 Gunther Blvd.
Exhibit 4	Aerial map and photographs of 508 S. 11th St.
Exhibit 5	Aerial map with photograph and PRC for Dollar General at 705 N. SR 9
Exhibit 6	Aerial map and photograph of 711 E. 38th St.
Exhibit 7	Aerial map and photographs of 5720 W. Washington St.
Exhibit 8	Aerial map with photograph, PRC, and additional photographs of 2600 E. Main St, and excepts from Pillar appraisal from Allen's workfile
Exhibit 9	Aerial map of 3540 Commercial Dr.
Exhibit 10	Marcus & Millichap listing and Beacon report for 2258 E. Markland Ave.
Exhibit 11	Aerial map for 2308 E. Stop 11 Rd.
Exhibit 12	Aerial map and photographs of 8625 Pendleton Pike
Exhibit 13	Aerial map and PRC for 1080 S. Peru St.
Exhibit 14	Aerial map of 830 E. Main St.
Exhibit 15	Documents from Allen's work file
Exhibit 16	Documents from Allen's work file
Exhibit 17	Page from PRC for 508 S. 11th St., Frankton, Marcus & Millichap listing for State Rd. 28 at Boomer Ave., Frankfort
Exhibit 18	Sales Disclosure Form for 620 W. Washington Center Rd.
Exhibit 19	Hall and Lady appraisal report for CVS #6656-02
Exhibit 20	Hall and Lady appraisal report for CVS #6640-02
Exhibit 22	12 pages from Allen's work file[1]
Exhibit 23	Hall and Lady appraisal report for CVS #6638-02

7. The record also includes the following: (1) all petitions, motions, and other documents filed in these appeals or the incorporated appeals, including the parties' post-hearing briefs; (2)

[1] The Assessor also offered five exhibits for demonstrative purposes only: RD1 through RD4 and R21.

all orders and notices issued by the Board or our ALJ in these appeals or the incorporated appeals; and (3) the hearing transcripts for these appeals and the incorporated appeals.[2]

OBJECTIONS AND REQUEST FOR THE BOARD TO TAKE OFFICIAL NOTICE

8. The parties made several objections to testimony and exhibits offered at the hearing on the CVS #6618-02 appeals. We adopt our discussion of, and rulings on, those objections from our final determination in those appeals. In any case, the Assessor's timeliness objections do not apply to the current appeals. The Assessor received the exhibits far in advance of the exchange deadline set forth in the parties' agreed Amended and Restated Appeal Management Plan for these appeals.

9. The Assessor also asks us to take official notice of testimony and parts of an appraisal report offered in yet another set of appeals—*CVS #3195-02 v. Monroe Cnty. Ass'r*, pet. nos. 53-005-09-1-4-00009 etc. He made the same request in the incorporated appeals, which we denied. As with the objections, we adopt our discussion and ruling on that question from our determination in the CVS #6618-02 appeals.

FINDINGS OF FACT

A. The Subject Property

10. The property sits on an approximately 1.81-acre site at the corner of Nichol Ave. and Raible Ave. in Anderson. It is visible and accessible from both streets at the signalized intersection. Nichol Ave. and Raible Ave. have daily traffic volumes of approximately 5,529 and 9,281 vehicles, respectively. The property is surrounded by residential neighborhoods. It is approximately 1.5 miles west of Anderson's central business district. Anderson University, which has approximately 2,000 students and 1,000 faculty and staff

[2] For ease of reference, we cite to the transcripts from the CVS #6618-02, CVS #6656-02, and CVS #6640-02 hearings as "Tr. I," "Tr. II,' and "Tr. III," respectively. We cite to the transcript from the current hearing as "Tr. IV."

members, is less than three miles to the northeast.[3] *Ex. S at 20-25; Ex. 23 at 17, 23, 30-39; Tr. III at 17, 20, 115*.

11. The property contains an approximately 10,125-square-foot rectangular freestanding building built in 1998. The store was originally built for CVS to lease and operate as a drugstore. It has an open sales floor and built-in refrigerator coolers. It also has a small pharmacy area with a mini drive-through window, a stock area, a small mezzanine area used for storage, and limited office/employee areas. The exterior is concrete block with brick veneer and synthetic stucco. The corner of the building has a canopied entrance area with doors angled to face the intersection. The drive-through also has a small canopy. There are windows spanning approximately 20 feet on either side of the entrance. The windows are not full-length, but they appear to extend to within a few feet of the ground. *Ex. S at 30-37, 77; Ex. 23 at 40-57; see also Tr. I at 92-93.*

B. Expert Opinions

1. Allen's Appraisal

12. CVS hired Laurence Allen to appraise the market value-in-use of the fee simple interest in the property. He holds an MAI designation from the Appraisal Institute, as well as various other professional designations. He has appraised a wide range of commercial property types, including various retail properties. Allen certified that he performed his appraisal and prepared his report in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Ex. S at 2-4, Addendum; Tr. I at 17-19.*

a. Market overview and highest-and-best-use analysis

13. In analyzing supply and demand, Allen looked at various economic indicators for the Indianapolis metropolitan statistical area ("MSA"). He included indicators such as population and household growth, which for the MSA outpaced the state and nation from 2010 through 2017, but which for Madison County lagged the state, nation, and MSA at

[3] The property was originally a single parcel. It was separated into multiple parcels for 2013 and 2014 and then combined back into a single parcel for the remaining years at issue. *Tr. IV at 9, 22-23.*

large. He also included median household income, which was again lower for Madison County. *Ex. S at 11-20; Tr. I. at 30-31*.

14. Allen further looked at the demographics for the subject property's primary trade area, which he defined as a three-mile ring around the property. According to Allen, the number of households and household income drive the basic demand for retail property. For both the primary trade area and Madison County as a whole (which he defined as the property's secondary trade area) households had declined slightly over the period covered by these appeals, and the decline was forecast to continue. Median household income for both trade areas was lower than the state and nation, but they were projected to grow going forward. *Ex. S at 40-47*.

15. Allen also examined supply and demand, including vacancy rates for all retail property in the two trade areas from 2008 to 2017. He used data from CoStar for all retail properties rather than only single-tenant properties. In Allen's view, the broader data was relevant because the subject property competes in the overall market, and multi-tenant retail space influences supply and demand. When asked at the hearings in CVS #6618-02 and CVS #6656-02, Allen was unsure whether the CoStar data included Mounds Mall, which had more than 300,000 square feet of retail space and which, except for its theater, was closed in 2018. According to his appraisal report for the subject property, the CoStar data included the mall, but CoStar did not attribute any vacancy to it. In any case, Allen testified that he checked his statistics and he did not include the mall for any of the years, although he did not know exactly when the mall closed. *Ex. S at 47-49; Tr. I. at 188, 211; Tr. II at 48-50, 79; Tr. III at 157-58.*

16. The data generally showed a narrowing of the gap between supply and demand. The biggest change came between 2011 and 2012, although it was a little up and down after that. Based on the data and on his evaluation of the subject property as a functionally adequate retail store with good visibility and corner attributes, Allen projected the following vacancy rates:

Year	2010	2011	2012	2013	2014	2015	2016
Rate	10%	10%	5%	5%	5%	5%	5%

Because he was valuing the fee-simple interest, Allen assumed that the property was not leased on the valuation date and that it would incur significant vacancy while the landlord looked for a tenant, negotiated a lease, and built the space out. So the vacancy rate considered vacancy both up front and long-term. *Ex. S at 47-49; Tr. I. at 188, 211; Tr. II at 36, 48-50; Tr. III at 118-19, 133; Tr. IV at 52, 58.*

17. Counsel advised Allen to value the property based on its current, rather than its highest-and-best, use. Allen explained that its current use was retail. He determined that its highest and best use would be the same because the improvements were not so specialized as to prevent the property from being used by another retailer, and it was of a type commonly exchanged in the market. *Ex. S at 50.*

b. Valuation approaches

18. With those things in mind, Allen turned to the three generally recognized valuation methodologies—the cost, sales-comparison, and income approaches.

i. Sales-comparison approach

19. Allen began with the sales-comparison approach. He chose comparable sales based on their market-segmentation, which considered their sale date; building size, age, and condition; location; use; and related attributes. He looked for single-user retail buildings of 8,000 to 16,000 square feet that sold in the Indianapolis MSA between 2009 and 2017. He tried as much as possible to locate sales of drugstore buildings. Several of the properties he chose were bought for use as "dollar stores," such as Dollar Tree and Family Dollar. Allen believed dollar stores were a big source of potential demand for drugstore properties. They were among the categories of retailers that saw the most growth between 2010 and 2017, and their operators look for stores of a similar size as the subject property. He did not consider sales of restaurants or automobile dealerships. He explained that restaurants cost substantially more to build and that restaurant operators would not be likely to buy the

subject property. He similarly testified that automobile dealerships involve a significantly different property type. *Ex. S at 51-52; Ex. G; Tr. I at 33-39, 219, 410, 419, 446-48.*

20. Allen used the following five sales and one listing in his analysis:

- **Sale 1**. This was a 16,716-square-foot building in Westfield. It originally was built to be an Ace Hardware store, but it eventually was converted to a collision-repair center at substantial expense. It sold for $74.78/sq. ft. The property is located across the street from a Kroger-anchored retail center. It is behind an automotive development and has only indirect frontage.
- **Sale 2**. This was a former Walgreens drugstore at 38th St. and College Ave. in Indianapolis that sold for $82.42/sq. ft. The 12,544-square-foot building is set back from 38th St., and another building partially obstructs its visibility to westbound traffic. At the time of sale, there were four years remaining on a five-year lease to Dollar Tree with rent of $7.50/sq. ft.
- **Sale 3**. This was a 12,740-square-foot former Walgreens store at Washington St. & Wildamere Dr. in Indianapolis. It sold for $62.79/sq. ft., or $800,000. The buyer acquired the property to lease to Dollar Tree. It sold again a little more than three months later for $1,477,000, although Allen did not discuss that sale in his report.
- **Sale 4**. This was an 11,200-square-foot former Goodwill store located at E. Main St. & Smith in Plainfield. It sat vacant for six months before it was bought for $101.79/sq. ft. and subsequently leased to Harbor Freight, a national retail chain that sells tools. The store was built in 1972 but was renovated periodically. In his previous appraisals, Allen listed the building as having 13,300 square feet and a unit value of $85.71/sq. ft.
- **Sale 5**. This was a 12,500-square-foot former Walgreens store at Washington St. & Ritter Ave. in Indianapolis. It sold for $93.15/sq. ft. with about 7 ½ years remaining on a 10-year lease to Family Dollar with rent of $6.80/sq. ft.
- **Listing**. This was an open listing for a vacant 13,490-square-foot former Walgreens drugstore at W. 14th St. and Jackson St. in Anderson. The listing was

first posted in 2016 and it offered the property for sale at $65/sq. ft. or for lease at $7/sq. ft.

Ex. A at 58, 81; Ex. O at 59, 81; Ex. Q at 53-60; Ex. S at 52-58; Exs. 6, 8, 22; Tr. I at 33-37, 129-30, 135-38; Tr. III at 120-21 177.

21. The set of comparable sales differed somewhat from the ones Allen used in appraising CVS #6618-02 and CVS #6656-02. He eliminated two leased fee sales—former Walgreens stores from Frankton and Alexandria—that were in more rural locations. He similarly eliminated the sale of a building from Indianapolis that he used in his other reports but treated as an outlier. He added the Listing, which he had used as support for his analysis in the other reports but had not directly relied on. *Tr. III at 120-21, 160*; *see also Ex. A at 53-61; Ex. O at 52-60*.

22. Allen explained that he had selected the Frankton and Alexandria sales primarily because they were from rural locations, like the store from Alexandria at issue in the CVS #6618-02 appeals. And he testified that the Listing better represented the market for a drugstore building in Anderson than did the sales he eliminated. But the Store in CVS #6656-02 was also located in Anderson. Allen did not explain why using the different set of comparables was appropriate here but not in his appraisal of that store. *Tr. III at 120-21, 160*; *see also Ex. A at 53-61; Ex. O at 52-60*.

23. Next, Allen considered various grounds for adjusting the sale prices for his comparable properties. He ultimately adjusted the prices to account for differences in property rights transferred, market conditions and, building size, as well as arterial, demographic, and submarket attributes. He relied on his experience and his analysis of the sales to quantify all his adjustments. In some instances, he also pointed to specific methodologies, such as matched-pair analyses. In many others, he did not. *Ex. S at 59-76; Tr. I at 110, 159-60, 213.*

24. Allen adjusted the prices of the two leased-fee sales (Sales 2 and 5) to account for the difference in property rights transferred. He asserted that the leases for those properties approximated market rate, although he did not explain how he determined that. He adjusted their sale prices downward by 5% to account for the cost of finding a tenant and leasing the space, which he believed a buyer of the subject property would incur in the posited fee-simple sale. He also adjusted the Listing downward by 5% to account for the fact that properties typically sell for less than their asking price. *Ex. S at 59; Tr. I at 128-29, 138-39.*

25. Turning to building size, Allen's data showed that larger buildings generally commanded a lower unit price than smaller buildings. His size adjustments ranged from 2%, for a building with 11,200 square feet to 13% for a building with 16,716 square feet. *Ex. S at 59-76.*

26. Next, Allen adjusted the sale prices to account for differences in market conditions between the sale dates and the valuation dates for his appraisal. To quantify that adjustment, he developed a real-estate index for the Indianapolis MSA. He relied on rental- and vacancy-rate trends for retail properties published by CoStar and on national capitalization-rate data for net-leased properties. The local data was not filtered down to single-tenant properties, although Allen testified that net-leased properties are typically single-tenant. The annual percentage increase ranged from 1% (for Jan. 2016 to Dec. 2016) to 12% (for Jan. 2011 to Dec. 2011), with all years showing some increase. At the extremes, his index resulted in a positive 32.7% adjustment to an August 2010 sale for the January 1, 2016 valuation date and a negative 29% adjustment to the Listing for the March 1, 2010 valuation date. *Ex. S at 59-76; Tr. I at 42-44, 156-57, 188.*

27. For arterial, demographic, and submarket attributes, Allen rated the subject property and each comparable property on a scale of one to seven. For arterial attributes, he considered traffic volume; whether the property had corner attributes; whether it was on a primary corner; whether it was located at a signalized intersection; and the property's visibility and access. He rated the subject property as "above average (4)." His ratings for the other

properties ranged from “fair (1)” to “very good (6).” He applied an adjustment of 5% for each level difference. Allen explained that traffic volume is very important to retailers in general. When isolated from other factors, large differences in traffic volume appear to have generally affected his ratings by either one or two levels. *Ex. S at 61-76; Tr. I at 429; see also Ex. A at 62.* .

28. For demographic attributes, Allen used the following information for a three-mile ring around each property: population, households, median household income, and purchasing power, the last of which was a function of households and median income. He rated the subject property as average. He rated the comparable properties from average to very good, again applying 5% for each level difference. *Ex. S at 62-76.*

29. Turning to submarket attributes, Allen analyzed the asking rent and vacancy rates within a three-mile ring of each property to determine effective rent for the area. He acknowledged that asking rent fluctuates with demand, which in turn is generated by population and the number of households. Both of those were also factors in his separate demographics adjustment. He rated the effective rent for the subject property's submarket as average, and he adjusted the sale prices for the comparable properties, which had submarket ratings ranging from average to good, by 2.5% for each level of difference. *Ex. S at 62-76; Tr. I at 153-54*.

30. Finally, Allen adjusted each sale price at the rate of 1% per year to account for differences in effective age. He viewed the subject property's actual and effective age as the same. *Ex. S at 63-76.*

31. For 2010, Allen's adjusted sale prices ranged from $48/sq. ft. (Sale 3) to $74/sq. ft. (Sale 1). The range shifted upward and widened in later years, mostly because of Allen's adjustment for improving market conditions. For each year, the average adjusted sale price for drugstore buildings was roughly $20 lower than the average for conventional buildings. Allen gave the most weight to the fee-simple and drugstore-building sales, explaining that buyers pay less for those buildings because they do not want their stores to look like

drugstores. They therefore reconfigure the interiors and facades for their own retail uses. He settled on the following values, which were at or near the drugstore average for each year:

Date	**Unit Value**	**Rounded Value**
March 1, 2010	$60/sq. ft.	$610,000
March 1, 2011	$62/sq. ft.	$630,000
March 1, 2012	$68/sq. ft.	$690,000
March 1, 2013	$70/sq. ft.	$710,000
March 1, 2014	$72/sq. ft.	$730,000
March 1, 2015	$72/sq. ft.	$730,000
January 1, 2016	$74/sq. ft.	$750,000

*Ex. S at 59-78; Tr. III at 124; Tr. III at 130***.**

ii. Income approach

32. Allen began his analysis under the income approach by determining market rent. To do so, he examined leases for comparable properties, settling on the following seven leases and one listing:

- **Lease 1**. This was a triple-net lease of a 22,373-square-foot freestanding building along Markland Ave., a major commercial artery in Kokomo. The lease was to Goodwill for $7.99/sq. ft.
- **Lease 2**. This was a triple-net sublease of a 15,251-square-foot building to a grocery store. A CVS store previously occupied the space under a ground lease. The sublease was for $6.35/sq. ft. The building is effectively an endcap space in a retail center. Although the endcap is not on a corner, the retail center itself is on a primary corner at Stop 11 Rd. and Madison Ave., a major commercial artery in Indianapolis. There is a Taco Bell between the endcap and Stop 11 Rd.
- **Lease 3**. This was an absolute-net lease of a 7,912-square-foot freestanding building to a dollar store for $8.90/sq. ft. The property is located along Pendleton Pike, a major commercial artery in Indianapolis. Allen initially testified that, unlike the Dollar General stores from his sales-comparison analysis, the building had concrete block construction all the way around. But he later acknowledged that it

looked similar to one of the buildings from his sales-comparison analyses in CVS #6618-02 and CVS #6656-02 appraisals, which was basically a class-S grade store of primarily steel construction.

- **Lease 4**. This is the same property as Allen's Sale 2. He reported it as an absolute-net lease to Dollar Tree for $7.50/sq. ft.
- **Lease 5**. This is the same property as Sale 5. Allen reported it as an absolute-net lease to Family Dollar for $6.80/sq. ft.
- **Lease 6**. This was a double-net lease of a 9,106-square-foot freestanding building to Dollar General for $8.59/sq. ft. The property is located on South Peru in Cicero. It was renovated to accommodate the tenant. There are no storefront windows.
- **Lease 7**. Allen reported this as a triple-net lease to Harbor Freight for $9/sq. ft. The 12,000-square-foot space is located in an anchored retail center near the intersection of Scatterfield Rd., a major commercial artery, and I-69 in Anderson.
- **Listing**. This was the same listing from Allen's sales-comparison analysis. It was being offered for $7/sq. ft.

Ex. S at 80-88; Ex. 11; Tr. I at 59-61, 163-64, 168-69, 174.

33. Although some of Allen's leases were for space in multi-tenant retail centers rather than freestanding buildings, he testified that tenants for whom the subject property competes, such as Harbor Freight, Autozone, and dollar stores, often locate in those centers. According to Allen, retail centers, especially anchored ones, offer some advantages over single-tenant properties because the other stores draw customers to the location. *Tr. III at 192-93*.

34. Allen next considered whether he needed to adjust the lease rates to account for various ways in which his comparable leases and properties differed from the subject property and a typical lease. He began with the lease type. Four of the leases (including the Listing) were triple-net, meaning the costs of common area maintenance ("CAM"), insurance, and property taxes were the tenant's responsibility, either through reimbursement to the landlord or through direct payment. But the landlord was responsible for the roof and outer

walls. Three of the leases were absolute net, meaning the tenant was responsible for all expenses (although the landlord was still responsible for administrative fees) and one was double net, meaning the tenant was responsible for insurance and taxes but the landlord was responsible for CAM. Because Allen determined that a property like the subject property would most likely rent on a triple-net basis, he adjusted the absolute- and double-net leases. He also adjusted the Listing downward by 5%, explaining that parties typically negotiate rent that is below the asking rate. *Ex. S at 89-106.*

35. For his market-conditions adjustment, Allen used CoStar asking-rent data for all retail properties in the Indianapolis MSA. He prepared an index, which ranged from negative 4.5% (Jan. 2008 to Dec. 2008) to positive 1.75% (Jan. 2013 to Dec. 2013). That differed from the index for his sales-comparison analysis, which took into account improving vacancy rates and declining capitalization rates in addition to asking rent. *Ex. S at 89-106; Tr. I at 62-63, 183, 220.*

36. The methodology for Allen's other adjustments mirrored the methodology from his sales-comparison analysis. He again adjusted for size and age but not for differences in construction quality. And he ranked the properties' arterial, demographic, and submarket attributes using the same scale. *Ex. S at 89-106.*

37. Allen did not adjust any leases to account for their location in retail centers. When asked whether freestanding buildings rent for more than space in retail centers, he responded that it depends on the location within the center. If the space is near an anchor, it might rent for a lot more, while other space might rent for less. *Tr. I at 174-75, 250-51.*

38. For 2010, Allen's adjusted base rents ranged from \$5.37/sq. ft. (Lease 2) to \$9.83/sq. ft. (Lease 7). He ended up with similar ranges for other years. Although Allen acknowledged that the adjustment process often results in narrowing the range of unadjusted rents, the range for his adjusted rents actually widened. He gave the greatest weight to leases of drugstore buildings. For 2010, the average adjusted rent for drugstore buildings was \$7.01/sq. ft. compared to \$8.97/sq. ft. for the rest of the spaces. The difference was similar

in other years. Allen settled on market rent of $7.50/sq. ft. for each year. *Ex. S at 89-106; Tr. I at 186-87.*

39. To that base rent, Allen added reimbursements for insurance and property taxes. He also added reimbursements for "exterior maintenance," which in his appraisals for the previous appeals he referred to as CAM. When asked whether CAM reimbursements were appropriate, he acknowledged that the term is generally used in multi-tenant shopping centers rather than single-tenant buildings. But he explained that an appraiser must still account for expenses to maintain the parking lot, including lighting and snow removal, and landscaping. Based on published data for Midwest shopping centers, Allen estimated exterior maintenance of $1/sq. ft. for 2010 and applied a 2% annual inflator for the later years. He estimated an insurance expense between $.20/sq. ft. and $.23/sq. ft. for the years at issue, and he used an iterative process based on his concluded value under the income approach to determine an appropriate amount for property taxes. *Ex. S at 107-10; Tr. I at 68-70, 75, 431; Tr. II at 36, 67-68.*

40. Allen then projected effective gross income ("EGI") by adjusting his potential income to account for vacancy and collection loss. He used the vacancy rates from his market overview and a collection loss of .5% for each year. Next, Allen subtracted operating expenses, including the reimbursable expenses, administrative (legal and accounting) expenses, and a management fee based on 3% of EGI. He also included a replacement allowance of $.20 to $.23. After subtracting operating expenses, he arrived at projected net operating income ("NOI") for each year. *Ex. S at 108-11; Tr. I at 70-71*.

41. The next step was to capitalize his projected NOI. Allen used four methods to determine an appropriate rate. First, he derived a rate from two of his comparable sales (Sales 2 and 5). Second, he looked at data published by CoStar for single-tenant retail investment properties in Indiana between 5,000 and 20,000 square feet. The expense structures used in reporting those rates varied. Third, Allen developed a capitalization rate through the band-of-investment technique. Finally, he looked at survey data for various retail property types,

including freestanding retail properties. Some of the data was national and some was targeted to Indianapolis. *Ex. S at 111-17; Tr. I at 207-08.*

42. Allen settled on the following capitalization rates:

Year	2010	2011	2012	2013	2014	2015	2016
Rate	8.5%	8.5%	8%	8%	8%	8%	7.5%

He applied those rates to his projected NOI for each year. He then adjusted his values to account for normal tenant improvements and leasing commissions necessary to achieve stabilized occupancy. *Ex. S at 111-17; Tr. I at 71-74; Tr. III at 133.*

43. The following table shows Allen's conclusions under the income approach for 2010:

NOI	$58,248
Cap Rate	8.5%
Value	$690,000
Leasing Comm.	($13,669)
Tenant Improv.	($40,500)
Rounded Value	$640,000

Allen's projected NOI was slightly different for later years, as were his capitalization rates for several of those years. He reached the following conclusions, respectively:

Valuation Date	**Value**
March 1, 2011	$630,000
March 1, 2012	$740,000
March 1, 2013	$740,000
March 1, 2014	$740,000
March 1, 2015	$730,000
January 1, 2016	$780,000

Ex. S at 119-20.

iii. Cost approach

44. Under the cost approach, Allen first determined the market value of the land. He used five sales and adjusted the prices for mostly the same factors he considered in his analysis of improved sales, purportedly using the same methodology. For his market-conditions adjustment, he again used what he described as an Indianapolis real estate index that, according to his report, he developed in the same way he developed the index he used to adjust his improved sales. Yet the index for his land sales led to far lower annual adjustments. For example, he adjusted an August 2010 land sale by 23.3% for the January 1, 2016 valuation date while he adjusted an August 2010 improved sale by 32.7% for that same valuation date. Although he testified that the methodologies were different, he did not coherently explain how or why. At most, he indicated that he based the adjustment on trends in the overall Indianapolis MSA. But according to his report, that was true for both his land and improved sales.[4] *Ex. S at 59-76, 128-42; Tr. II at 56, 67.*

45. In any case, his land value conclusions ranged from $410,000 to $470,000 for the various years under appeal. *Ex. S at 133-42.*

46. To determine the building's replacement cost, Allen used cost schedules from Marshall Valuation Service ("MVS"). He determined that the building was a class-C drugstore. He also believed that it best fit MVS's description of average, rather than good, construction quality. MVS offers the following descriptions for those two grades:

Type	Exterior Walls	Interior Finish	Lighting, Plumbing, Mechanical
Good	Brick, best block, stucco good storefront and ornamentation	Drywall, acoustic tile, vinyl-comp., includes typical mini drive-thru	Good lighting and outlets, standard fixtures and pharmacy
Average	Brick or block, some mansard, parapet ornamentation	Drywall, some vinyl, acoustic tile, vinyl composition tile	Adequate lighting and pharmacy, small employees restroom

Ex. S at 142-65; Ex. G.

[4] Allen's market conditions adjustments also differed in several instances from the adjustments applied to the same comparable land sales in his appraisals for the CVS #6618-02 and CVS #6656-02 appeals. For example, in these appeals, he adjusted an August 2010 land sale by 23.3% for the 2016 assessment date, while he adjusted that same sale by only 17.4% in those other appraisals. *See Ex. S at 123, 141-42; Ex. O at 125, 143; Ex. A at 126, 144.*

47. Although Allen did not go into detail about his decision to rate the subject building as average, he did explain his rating for the similar building at issue in the incorporated CVS #6618-02 appeals. Allen pointed to what he described as the building's dark, utilitarian commercial-grade carpeting and acoustical-tile drop ceiling, which he indicated were not good-quality interior finishes. While the description of excellent-quality interior finish refers to carpet, Allen pointed to a different section of MVS titled "Quality of Construction Indicators." There, it describes average flooring as including standard carpet, as opposed to good flooring, which includes good-quality hardwood, terrazzo, or above-average carpet. All of those are superior to what the CVS buildings have. He also pointed to a photograph of an average class-C drugstore with a grand entry tower, canopies, and various types of décor on the front. He did not believe the CVS buildings were as elaborate as the pictured building. *Ex. G; Tr. I at 406-10; Tr. IV at 51-52*.

48. Next, Allen estimated depreciation for the building and site improvements. He relied on the age-life method to estimate incurable physical depreciation. He believed the property suffered from two additional forms of obsolescence—functional obsolescence from the building's custom construction for a specific user, and external obsolescence from generally weak economic conditions during several of the years at issue. *Ex. S at 142-65; Tr. I at 83-85.*

49. Focusing on functional obsolescence, Allen explained that the design and layout of a CVS store, or drugstores generally, differs from what one normally sees for retail properties. Replacement costs for an average drugstore are approximately 20% higher than replacement costs for general retail stores. Allen explained that buyers would not pay for custom drugstore features like drive-throughs and refrigeration. In fact, he testified that drugstore layout and design could be a liability. Although he acknowledged that it would be relatively cheap to remove the half-wall pharmacy service desk, he explained that flooring and lighting might need to be redone, and the building would need to be reconfigured if it were to accommodate multiple users. In addition, he testified that buildings with large concrete-block storefronts with limited windows are not as appealing

to retailers as buildings offering showroom-type exposure offered by full-length widows. *Ex. S at 32, 144-47; Ex. G; Tr. I at 83-85, 91-92, 94-95, 410-11*; *Tr. III at 151-52.*

50. Tony Orlando, a broker who specializes in the sale and subleasing of existing retail properties, echoed some of Allen's points, particularly from the perspective of retailers who sell "softline[s]," such as clothing. They want significant exposure from full-length windows. He explained that former Osco stores bought by CVS had very few windows. When retailers bought those stores, they had to cut new windows. According to Orlando, retailers, especially softline retailers, also prefer oblong layouts to the rectangular layout of drugstores. Some tenants may be more concerned about cost than about construction quality and exterior ornamentation. He also testified that converting pharmacy areas entails more than minimal costs, because the flooring needs to be redone to eliminate electrical outlets under fixtures. *Tr. III at 204-06.*

51. Allen quantified total obsolescence by capitalizing deficient income. To calculate the income deficiency, he subtracted his projected NOI under the income approach from the NOI necessary to support the development's depreciated cost and capitalized the difference. He ended up with obsolescence ranging from a high of $552,356 for 2011 down to $292,466 for 2016. He explained that the decrease stemmed mostly from improving market conditions. *Ex. S at 144-65; Tr. at I 85-87, 198, 223-25, 410-13*.

52. Allen also pointed to alternative ways to isolate some, but not all, of the functional and external obsolescence captured by his calculation. For functional obsolescence, he compared the depreciated base cost of an average class-C drugstore to the same cost for an average class-C retail building. The difference ranged from $125,598 (12.5% of the building's replacement cost) for 2010 to $114,866 (10.1% of replacement cost) for 2016. *Ex. S at 144-46; Tr. III at 135-41.*

53. As for external obsolescence, Allen asserted that markets with vacancy rates above 5% are oversupplied and are considered as suffering from external obsolescence due to market conditions. He explained that he came up with that number because "real estate circles"

generally considered 95% occupancy to be stabilized. Similarly, Allen asserted that markets with capitalization rates above 7.5% were still recovering from the credit crunch of 2008-2009. He therefore performed two calculations. First, he computed the subject property's values using the NOI derived from his market vacancy rate and the NOI from using a 5% vacancy rate. He then capitalized the difference. That yielded obsolescence of approximately $62,140 and $62,283 (6%) for 2010 and 2011 to $0 for the rest of the years. Second, he compared the values derived from capitalizing his market NOI using his market capitalization rate and from capitalizing the same NOI using a rate of 7.5%. The difference ranged from $90,000 and $100,000 (9%) in 2010 and 2011 to $0 in 2016, when his market-derived capitalization rate was 7.5%. *Ex. S at 145-46; Tr. III at 135-41, 189.*

54. According to Allen, those calculations did not fully capture all the functional and external obsolescence at the subject property. The functional obsolescence calculation would not capture the full loss in value to a user who would need to reconfigure the building for typical retail use. Similarly, neither of the external obsolescence calculations captured the loss from stagnant, and even declining, rent. Indeed, he pointed to rent as the reason why his overall calculation for the subject property was higher than his calculation for CVS #6640-02. Even though that store was almost identical to the subject store physically and had higher market vacancy, the subject store's market rent was $.50/sq. ft. less. *Ex. S at 144-46; Tr. III at 135-41; Tr. IV at 61-63, 72-81.*

c. Reconciled values

55. In reconciling his conclusions under the three approaches, Allen explained that the income and sales-comparison approaches were reliable. He gave only limited consideration to the cost approach because buyers and sellers typically do not rely on it for this type of property. Also, because he extracted obsolescence from the market, his analysis under the

cost approach was related to the other two approaches. He settled on the following reconciled values:

Valuation Date	Cost	Sales	Income	Reconciled
March 1, 2010	$690,000	$610,000	$640,000	$620,000
March 1, 2011	$680,000	$630,000	$630,000	$630,000
March 1, 2012	$790,000	$690,000	$740,000	$710,000
March 1, 2013	$790,000	$710,000	$740,000	$720,000
March 1, 2014	$790,000	$730,000	$740,000	$730,000
March 1, 2015	$780,000	$730,000	$730,000	$730,000
January 1, 2016	$830,000	$750,000	$780,000	$760,000

Ex. S at 167; Tr. III at 141.

2. Hall's Appraisal

56. The Assessor hired David Hall and Michael Lady, MAI appraisers for Integra Realty Resources, to appraise the property. They prepared a comprehensive retrospective appraisal report estimating the market value-in-use of the fee-simple interest in the property. Only Hall testified. For ease of reference, we will refer to Hall as the appraiser and to the valuation opinions as his. *Ex. 23 at Addendum A.*

57. Like Allen, Hall estimated the market-value-in-use of the fee-simple interest in the property and certified that he performed his appraisal and prepared his report in conformity with USPAP. Unlike Allen, Hall did not separately analyze each year under the three generally recognized valuation approaches. Instead, he applied those approaches to estimate a value for March 1, 2015, and then used the Consumer Price Index for all urban consumers ("CPI-U") to trend that estimate values as of the remaining valuation dates. *Ex. 23, passim.*

a. Economic, demographic, market-segmentation, and highest-and-best-use analyses

58. Hall concluded that relevant demographic and economic trends and indicators for Madison County were mixed—gradual population loss but relatively stable employment. He

similarly found mixed indicators for the surrounding area. He projected that population and household levels would stabilize over the next few years. *Ex. 23 at 13-20*.

59. In his market-segmentation analysis, Hall explained that the property's greatest utility and appeal was for use as a drugstore but that it was capable of supporting various other freestanding retail uses with minimal modifications. Among the things he considered important in analyzing the property were the following: its construction as a freestanding single-tenant building; its size; its cost of construction, which Hall explained relates to value because properties that are more expensive to build sell for higher prices; and its corner orientation at a signalized intersection. *Ex. 23 at 22-29; Tr. I at 248-51, 267-268.*

60. Hall also analyzed national trends in capitalization rates for net-leased properties as well as a CoStar analytic survey of 310 properties from Anderson. That survey showed that asking rates for single-tenant retail properties were increasing from 2010 through 2016 while vacancy rates were declining, albeit within a narrow range between a little over 3% and below 2%. Considering the mix of positive and negative influences, Hall concluded that typical investors would have anticipated stable demand for the subject property for the period spanning March 1, 2010 to January 1, 2016. *Ex. 23 at 22-29.*

61. Unlike Allen, Hall focused on data for single-tenant properties. Had he expanded to all retail, he would have included data he believed would have skewed his analysis. Mounds Mall and River Ridge, another retail center that Hall had appraised and that was only 55% occupied, had more than 500,000 square feet of rental space between them. According to Hall, those types of properties do not directly compete with the subject property, which is a relatively small store that draws customers from the neighborhood area. Demand for one does not necessarily translate to demand for the other. *Tr. II at 78-80, 111-12*.

62. Like Allen, Hall believed it was helpful, although not required, to analyze the property's highest-and-best use. Also like Allen, Hall determined that the property's current use was its highest-and-best use as improved. Although he occasionally referred to the property's

use as a drugstore, he valued it for freestanding retail use. *Ex. 23 at 63-65; see also Tr. I at 248.*

b. Valuation approaches

63. With those preliminary analyses in mind, Hall turned to the three generally recognized valuation approaches.

i**. Cost approach**

64. Hall identified five sales of vacant sites as well as an additional sale. He adjusted the sale prices to account for differences between those sites and the subject property in terms of location, access/exposure, and size. He settled on $210,000/acre, or $380,000 for the site. *Ex. 23 at 67-74.*

65. Like Allen, Hall used MVS cost schedules for a class-C drugstore to calculate the building's replacement cost. Unlike Allen, Hall felt that the store more closely reflected the description of "good" instead of "average" construction quality. Hall pointed to the building's storefront and ornamentation, as well as to its load-bearing block with brick veneer and stucco added on top for ornamentation. The interior has a mini drive-through window and what Hall believed was good lighting. It also has a pharmacy. According to Hall, all of those characteristics are consistent with MVS's description of good construction but MVS does not mention them when it describes average construction. Hall also described what he considered good commercial carpet, noting that MVS lists carpet only in the description of "excellent" construction quality. *Ex. 23 at 44-45, 78-79; Ex. 2; Tr. I at 260-65; Tr. II at 85; Tr. IV at 19-21.*

66. Hall disagreed with Allen's reliance on the "Quality of Construction Indicators" section of MVS. Hall understood that section as having been designed to assist appraisers where a unique property does not fit a single specific category. Because the subject building is strongly consistent with drugstore construction, Hall believed the drugstore pages were a more reliable indicator of costs. *Ex. G; Tr. I at 353-54, 385-87*.

67. Because MVS does not include all indirect costs, Hall added a 10% allowance for taxes and carrying costs on land during construction, legal and accounting fees, and marketing and finance costs before stabilization. Allen criticized that choice on grounds that MVS includes all direct and indirect costs. Moreover, costs incurred leading up to stabilization do not reflect the fee-simple interest. *Ex. 23 at 77; Tr. I at 279-81, 363, 413-14; Tr. III at 42.*

68. Hall also explained that some reward generally would be necessary for an entrepreneur to assume the risks associated with development, construction, and leasing, particularly for income-producing properties. But he did not include anything for entrepreneurial profit. He explained that appraisers are less likely to include such profit when an entity develops a property for its own occupancy, which was one scenario in this case. He also lacked sufficient data to document or quantify an appropriate amount. *Ex. 23 at 77; Tr. I at 279-81, 363; Tr. III at 42.*

69. Like Allen, Hall viewed the subject building's actual and effective age as the same. He used the age-life method to estimate $619,459 in physical depreciation for the building and site improvements. *Ex. 23 at 79-81; Tr. IV at 27.*

70. Unlike Allen, Hall did not believe the improvements suffered from any functional or external obsolescence beyond what is measured through estimating physical depreciation. By using replacement, instead of reproduction, costs, Hall believed he eliminated any functional obsolescence from elements unique to CVS's business plan. In Hall's view, the building had physical characteristics consistent with market norms. It had an open floor plan, good utility, and flexibility for various freestanding retail uses. The pharmacy had only minor build-outs that Hall believed could be removed at little cost. Otherwise, it was similar to the rest of the sales floor area. Indeed, he explained that buyers routinely remove similar build-outs to make way for the new occupant. *Ex. 20 at 67-68, 84-85; Tr. at I at 283-84, 267, 342; Tr. III 35-37, 213-15*.

71. Hall disagreed that masonry construction was super-adequate for general retail use. To the contrary, he found abundant, comparable concrete-block buildings with similar exterior finishes and ornamentation that were used for various retail purposes. So it was not atypical for the market. While signage and some other characteristics make the property discernably different, Hall did not believe they were significant enough to penalize the property from a subsequent user's perspective. *Ex. 20 at 67-68, 84-85; Tr. at I at 283-84, 267, 342; Tr. III 35-37, 213-15*.

72. As for external obsolescence, Hall did not find any locational issues. While there were mixed economic and market indicators affecting Madison County's retail sector, he concluded that a typical market investor would have anticipated stable demand trends and values. He believed that the location near Anderson University offset some of the broader population loss from Madison County. He also explained that nationally, capitalization rates for single-tenant retail properties were declining slightly and consumer spending was steadily increasing between 2010 and 2016. Because typical investors in freestanding buildings like the subject property might operate a national franchise, Hall believed they would consider national trends to some extent. *Ex. 23 at 64, 80-81; Tr. III at 44-46.*

73. After adding the depreciated replacement cost to his land values, Hall arrived at an estimate of $1,200,000 under the cost approach. *Ex. 23 at 82.*

ii. Sales-comparison approach

74. Turning to the sales-comparison approach, Hall looked for fee-simple sales from Indiana involving freestanding retail stores between 6,500 and 12,000 square feet. To avoid giving undue influence to any one type of user, he also wanted to select properties representing a spectrum of retail uses. Because he did not find enough recent sales form Anderson or Madison County, he expanded his search to other Indiana markets a prospective investor would consider. He tried to stay out of big cities and focused on markets that were similar to the subject property's market. He ultimately located the following six sales:

- **Sale 1**. This was a 7,464-square-foot former CVS store in Evansville that O'Reilly Auto Parts bought for $84.41/sq. ft. It was similar to the subject store in terms of construction quality, although it did not have as many storefront windows. O'Reilly relocated the entrance, installed new storefront windows, and painted the exterior.
- **Sale 2**. This was a 10,040-square-foot building on Highway 36 in Avon that sold to Crown Liquors for $112.05/sq. ft. It was in fair condition. The buyer remodeled the exterior and extensively renovated the interior. The buyer later leased a small part of the store to other tenants.
- **Sale 3**. This was the same as Allen's Sale 4, an 11,200-square-foot former Goodwill store in Plainfield that sold for $101.79/sq. ft.
- **Sale 4**. This was a 6,518-square-foot former restaurant on the fringe of Fort Wayne that sold for $122.74/sq. ft. It was vacant when Texas Roadhouse, an adjoining property owner, bought it, and Hall was unsure of the buyer's plans for the property. He believed the price was consistent with the market range. A Loopnet listing referred to the property as fully equipped, including a three-way permit for alcohol sales, but the sales disclosure form indicates that no personal property was transferred.
- **Sale 5**. This was a 10,480-square-foot showroom building from Evansville that sold for $124.05/sq. ft. before adjustment for buyer expenditures. An automobile dealership had occupied it. It mostly consisted of retail space, although it had a small mezzanine. The buyer extensively modified the building by constructing a new façade, resurfacing the parking lot, and demolishing a canopy.
- **Sale 6**. This was a 6,500-square-foot former Blockbuster Video store in Greenwood that sold for $184.62/sq. ft. before adjustment for buyer expenditures. The buyer intended to use it as an Autozone store and renovated the interior and exterior, replaced the roof, and resurfaced the parking lot.

Ex. 23 at 83-91; Ex. H; Ex. 18; Tr. I at 136, 285-92, 315-16, 346, 361, 389; Tr. III at 49-52.

75. Although Hall was aware of the listing for the vacant Walgreens that Allen included in his report, Hall decided not to use it. His research showed that it was essentially a casualty of surplus drugstore supply in the area. To his knowledge, it was the only vacant freestanding drugstore building in Anderson. And vacancy tends to reflect market demand. Indeed, Hall testified that something about the property itself must have explained the vacancy because Walgreens is not a failed business model. Supply and demand are not the same everywhere. Allen, by contrast, testified that he had not seen a CVS or Walgreens close a store because of its location characteristics, although he has seen them close stores because they had too many stores in the market. *Tr. II at 97-99, 118-19; Tr. III at 182*.

76. All of the comparable buildings were built with masonry or brick. While there were some dissimilarities in minor features, they were fairly consistent with the subject building as a whole. Sale 1 had relatively few windows, and Sale 3 only had windows along one side. Sales 2 and 4 had windows along the full front façade and one side. *Tr. I at 351-52; Tr. III at 56-57.*

77. Hall defended his use of the former restaurant (Sale 4), explaining it was a freestanding building of similar construction quality and materials as the store in CVS #6618-02. It also sat near the middle of the lot with frontage on a major thoroughfare, and it had adequate parking. Similarly, Hall believed that the former automobile showroom (Sale 5) was of comparable construction as the subject store. It was essentially a rectangular building that Hall believed could be used for various retail purposes. *Tr. I at 285-92.*

78. Like Allen, Hall adjusted his sale prices to account for various differences between the comparable sales and the subject property. First, he considered adjustments for expenditures anticipated by a buyer at the time of sale. He limited his consideration to expenditures for major structural components that any user would need to make in order for the property to have utility. He concluded that Sales 5 and 6 required those adjustments. *Ex. 23 at 87-97; Tr. I at 292-97; 365-66, 389-93.*

79. Hall could not confirm the expenditures actually anticipated or incurred for Sales 5 and 6, so he used mostly the low end of MVS's cost ranges for exterior wall finishes, roof replacement, and parking lot resurfacing. Based on those costs, he adjusted the two sale prices upward by $150,000 each. Because Hall considered the two properties in their improved condition following the expenditures, he viewed their effective ages as less than their physical ages. That led him to adjust their sale prices downward for their superior age and condition. If Hall had not adjusted for buyer expenditures, he would have considered the sale prices for the properties as is, and might have viewed their effective ages as more like their physical ages. That, in turn, would have led him to make a different adjustment for age/condition. The difference probably would have been a wash. *Ex. 23 at 87-97; Tr. I at 306-07, 309, 394, 420, 469-72.*

80. Because of the mixed positive and negative influences affecting the retail real estate market from 2010 to 2016, Hall did not believe he needed to adjust for differences in market conditions between the various sale dates and his March 1, 2015 valuation. *Ex. 23 at 29, 93; Tr. I at 297-98; Tr. II at 94-95.*

81. Hall did adjust several sale prices to account for differences in land/location. He believed there was demand for the subject property's location. He also explained that demand for a property like the subject property, whose potential users include operators of drugstores, dollar stores, and auto-parts stores, is correlated more strongly with population density than with median household income. According to Hall, insurance often subsidizes pharmaceutical purchases, and operators of dollar and auto-part stores cater to middle- and lower-income customers. *Ex. 23 at 87-97; Tr. I at 298-300; Tr. III at 102-03.*

82. In addition, in appraising the CVS #6640-02, Hall explained that students living near Anderson University's campus might have skewed the area's median household income, even though the proximity of the campus created a measure of stability and even an increment of demand for the subject property. The same phenomenon happens in other areas with large student populations, such as Bloomington and Lafayette, which are relatively strong markets. Just looking at median income does not give the full picture.

Although the university was located closer to the store in CVS #6640-02 than it is to the subject store, it is still within the store's primary trade area. *Tr. III at 17, 45, 20-23, 29-30, 97-98; Tr. IV at 29-30.*

83. In any case, Hall gave the greatest weight to population density and surrounding land influences in considering the location component of his adjustment. Based on those factors, he determined that Sales 1 through 5 were in similar locations as the subject property and did not adjust for that component. He adjusted Sale 6 downward for its superior location within a one-mile radius of multiple high-density multi-family apartment complexes, big box stores, retail outlots, shopping centers, and restaurants. As for the land component, Hall noted that Sale 1 had significantly less land area, which hurt its parking capacity as well as its expansion and redevelopment potential. He therefore adjusted it upward by 20%. Although Sale 6 also had a smaller site, its superior location more than offset that issue, and its net land/location adjustment was negative 20%. *Ex. 23 at 93, 97.*

84. Turning to access and exposure, Hall considered the property's corner location at a major signalized intersection as well as its frontage and visibility. He rated Sales 1 and 4 as inferior and adjusted them upward by 10%. He considered the rest as similar and made no adjustments. Sales 2 through 6 all had higher traffic counts along the busiest nearby roads. For Sales 2, 5, and 6, those traffic counts were all more than 30,000 vehicles per day, although the count for Sale 5 was along a divided expressway that ran parallel to the roads from which the property could be accessed. So while Sale 5 had more exposure to traffic, Hall considered its access inferior to the subject property's access. Similarly, while Sale 4 was close to I-69, it was not visible from the interstate. In fact, the overpass and retaining walls for the interstate impeded the property's visibility from the road that did provide direct access. *Ex. 23 at 94, 97, Exs. I-M; Tr. I at 301-05, 427-29, 473-76.*

85. According to Hall, traffic volume can be a strong predictor of demand for certain types of retail properties, such as gas stations or convenience stores, which depend heavily on drive-by traffic. But it is only one data point, and he believes it is less significant for stores where customer traffic is not as likely to be an impulsive decision. Even in the context of

evaluating traffic, appraisers must consider other factors, such as accessibility from the roads where the traffic counts are taken, and the competition along those roads. *Tr. I at 301-05, 475.*

86. Like Allen, Hall found some correlation between building size and unit price and therefore adjusted the sale prices for the properties with the three smallest buildings (Sales 1, 4, and 6) downward by 5%. He similarly adjusted each sale by 1.5% per year difference in effective age. *Ex. 23 at 94-95, 97.*

87. It is unclear exactly how Hall quantified his adjustments. He explained that he was able to minimize the influence of certain variables, such as size and age, and that he therefore could do paired-sales analyses or other sensitivity tests. But he did not indicate which specific adjustments he based on those tests. *See Tr. I at 308.*

88. Next, Hall reconciled his adjusted sale prices. In his report, he said he gave the greatest weight to Sale 1, which was formerly occupied by a CVS store, and to the sales with stores that were the most similar to the subject store in size (Sale 2) and age (Sale 6). The average adjusted price for those three sales was $132.32/sq. ft. At th ehearing, however, Hall testified that he gave similar weight to all the sales, with the average adjusted price being $127.68/sq. ft. He settled on a value of $130/sq. ft. or $1,320,000. *Ex. 23 at 97, 103; Tr. III at 51; Tr. IV at 32.*

89. Solely as a test of reasonableness, Hall looked at the 2013 sale of a freestanding retail building in Anderson. It was leased to Advance Auto Parts for $9.60/sq. ft. pursuant to a renegotiated build-to-suit lease, and it sold for $140.38/sq. ft. He viewed the property as very similar to the subject property in ornamentation and location, and it was built one year earlier. Like the subject property, it had windows that wrapped around the entrance, although they appear to extend all the way to the ground. *Ex. 23 at 98-101; Tr. I at 310-13; Tr. III at 52-53; Tr. IV at 31.*

90. Because of the difference in property rights transferred (leased fee vs. fee simple), Hall looked at the range of average asking rents between 2010 and 2015 as reported in an analytic survey of 310 single-tenant retail properties from Anderson. He concluded that the contract rent was reasonable and that no adjustment for property rights was needed. Because nine years remained on the lease term, Hall felt that an adjustment for superior economic conditions would be appropriate. Given the relatively minor adjustments, he felt the sale confirmed the reasonableness of his value estimate for the subject property. *Ex. 23 at 98-101; Tr. I at 310-14; Tr. III at 52-53; Tr. IV at 31.*

iii. Income approach

91. Like Allen, Hall began his analysis under the income approach by estimating market rent for the subject property. He identified seven leases of comparable single-tenant freestanding retail properties:

- **Lease 1**. This was a triple-net lease of a 6,510-square-foot building on Mann Rd. in Indianapolis to O'Reilly Auto Parts for $11/sq. ft. It was shadow anchored by a Marsh supermarket.
- **Lease 2**. This was a triple-net lease of an 11,250-square-foot building on North Michigan Rd. in Indianapolis to Goodwill for $14/sq. ft.
- **Lease 3**. This was a triple-net lease of a 7,844-square-foot former video store on East Main St. in Plainfield to O'Reilly Auto Parts for $10/sq. ft.
- **Lease 4**. This was a triple-net lease of a 10,650-square-foot building on the corner of East Memorial Dr. and Madison St. in Muncie to CVS Corp. for $11.33/sq. ft. It was a renegotiation and extension of a build-to-suit lease.
- **Lease 5**. This was an absolute-net lease of a 10,125-square-foot building on State Rd. 67 in Mooresville to CVS Caremark Corp. for $16.25/sq. ft. It was a renegotiation of a build-to-suit lease for $20.21/sq. ft.
- **Lease 6**. This was an absolute-net lease of a 10,125-square-foot building on East Main St. in Danville to CVS Caremark Corp for $16.53/sq. ft. It was a renegotiation of a build-to-suit lease for $18.78/sq. ft.

- **Lease 7**. This was the renegotiated lease for Advance Auto Parts store from Hall's sales-comparison approach: a 6,696-square-foot building leased for $9.60/sq. ft.

Ex. 23 at 106-10; Tr. I at 318-20.

92. Unlike Allen, Hall did not use leases from multi-tenant retail centers. Hall testified that single-tenant freestanding buildings differ from multi-tenant retail centers, explaining that tenants in the former have exclusive use of all the parking spaces and points of access while tenants in the latter share those things. In addition, freestanding buildings are typically located along major thoroughfares with direct frontage, and often have good storefront entrances and corner orientations. That is often untrue of shopping centers, which have decreased visibility because they are set back from the road. In some cases, outlot buildings block the visibility of inline tenants. Similarly, tenants in retail centers share walls while freestanding buildings have exposure along multiple sides of the building. Hall also noted that there are often differences in expense structure, with retail-center tenants having to pay CAM. Nonetheless, while Hall testified that single-tenant properties generally do not compete with retail centers for tenants, he acknowledged that dollar and auto-part stores sometimes lease space in multi-tenant retail centers. *Tr. I at 250-51; Tr. II at 109, 120-21; Tr. III at 86.*

93. Four of Hall's leases were the product of renegotiations with the original tenant, and three were operated as CVS stores.[5] Because the parties to the negotiation did not have any shared ownership interest, he did not believe they were related. Nor, in his opinion, were they atypically motivated, because both were in a position to walk away. Unlike an original build-to-suit lease, which is really a financing vehicle, Hall could not conceive of a reason why CVS or any other tenant renegotiating a lease would agree to pay above-market rent. That differs from Allen, who testified that lease renegotiations involve related parties who are atypically motivated. According to Allen, moving from an established business location may cost the tenant significant business. In his experience, national retailers do

[5] The original CVS store leases (Leases 4-6) were build-to-suit. The other lease (Lease 7) may have been as well—the original lease to Advance Auto Parts commenced the same year as the building was constructed. *See Ex. 23 at 99-100*.

not look at the market when renegotiating leases; instead, they will extend the lease if they can reduce the rent by a targeted amount, such as 20%. Allen also noted that renegotiated leases are not offered on the open market and therefore do not meet the definition of market rent. *Ex. 23 at 112*; *Tr. I at 374-75, 380, 429-30, 479-84; Tr. III at 143.*

94. Hall presumed the renegotiated CVS leases included a corporate guarantee. He did not recall whether the landlords had negotiated with other prospective tenants. Nonetheless, the parties in each instance negotiated rent that was lower than the original lease despite the fact that the buildings were in good condition. And two of the four renegotiated leases, including one of the CVS leases, fell within the range of his other comparable leases. They were also far below the rate from the build-to-suit drugstore leases Hall examined. Given the effective ages and the range of average asking rates indicated by his CoStar data, Hall felt the renegotiated rates were reasonable. *Ex. 23 at 112; Tr. III at 64-65, 92, 103-04.*

95. Hall compared the leases to the posited lease for the subject property in terms of expense structure, lease conditions, and market conditions, and he compared the properties in terms of location, access/exposure, physical characteristics, age/condition, and economic characteristics. Rather than quantify adjustments, Hall qualitatively analyzed the leases, explaining that they fell within a narrow enough range to sort out where the subject property's rent should fall. But he did not expressly address all the elements of comparison for each property. For example, he only addressed access/exposure characteristics for one property. He noted that the leased properties bracketed the subject property in terms of age (at the time of the lease) and size and that the four renegotiated leases were for buildings that were physically similar to the subject building. The leases to second-generation tenants were all for buildings of inferior construction quality but superior locations. *Ex. 23 at 112; Tr. I at 321-23*.

96. The median, average, and midpoint for Hall's comparable leases were \$11.33/sq. ft., \$12.67/sq. ft., and \$13.07/sq. ft., respectively. Hall gave equal weight to all the leases and gave the greatest weight to the median and average. He settled on \$12/sq. ft. Even if he were to exclude the three renegotiated CVS leases, the remaining leases averaged

$11.15/sq. ft.[6] To further support his conclusion, Hall noted that it fell at the midpoint of the range of average asking rates for 2010 to 2015 identified in the CoStar survey of 310 Anderson properties and was actually at the average for March 2015. *Ex. 23 at 112-14; Tr. I at 321-25, 348, 378-80; Tr. III at 66-67; 107.*

97. Hall did not include reimbursements for CAM, and he criticized Allen for doing so. According to Hall, CAM only exists as an expense in multi-tenant properties, such as shopping centers, where tenants share the use of certain areas they do not individually lease. He has not seen CAM as a line-item expense for single-tenant net-leased properties. *Ex. 23 at 116; Tr. I at 327-28.*

98. Hall similarly did not include reimbursements or corresponding expenses for insurance and property taxes. He explained that tenants often pay those expenses directly under triple-net and absolute-net leases. In any case, he has found that buyers, sellers, and brokers typically report capitalization rates using triple-net expense structures, where they account for management fees and reserves and have expense ratios of 3% to 5% of total income, or under absolute-net structures, where they have expense ratios of zero. Because *The Appraisal of Real Estate* instructs appraisers to apply capitalization rates in the same manner they were derived, Hall felt he needed to make his projected expense structure for the subject property reflect the expense structures for the sales from which he extracted his capitalization rates. *Ex. 23 at 116; Tr. I at 327-31; Tr. III at 70.*

99. When asked how he accounted for the fact that the subject property's owner would bear the costs of insurance and property taxes during periods of vacancy, Hall explained that market-derived capitalization rates implicitly reflect those risks. In any case, even if he had included Allen's calculation of insurance expenses and property taxes, it would have only affected his valuation opinion by roughly $14,400. *See Tr. I at 380-83*.[7]

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[6] If all four renegotiated leases were excluded, the average rent would be $11.67/sq. ft., the midpoint would be $12/sq. ft., and the median would be $11/sq. ft.

[7] Hall testified to the minimal impact of including those expenses in the CVS #6618-02 appeals. The same is true here. Multiplying Allen's insurance ($2,236) and property tax estimates ($22,200) for 2015 by Hall's 5% vacancy rate yields $1,222. When capitalized using Hall's 8.5% capitalization rate, the total is $14,376.

100. Thus, Hall estimated potential gross rent of $121,500, which reflected base rent of $12/sq. ft. with no reimbursements. He then adjusted that rent by 5% to account for vacancy and collection loss. He based his adjustment on data from CoStar, which showed market vacancy in Anderson trending below 2% for single-tenant retail properties as of March 1, 2015, as well as on survey data for the national net-lease market showing vacancy and collection loss ranging from 0% to 5% for the first quarter of 2015. *Ex. 23 at 117-18; Tr. III at 71.*

101. For expenses, Hall included a management fee and replacement reserves, both of which he explained were typical for triple-net leases. He used a management fee of 2.5% and reserves of $.20/sq. ft. Those deductions resulted in NOI of $110,514. *Ex. 23 at 118; Tr. I at 331.*

102. To determine an appropriate capitalization rate, Hall looked at market sales and investor surveys. He also built a rate through the band-of-investment technique. He verified that most of the sales reflected triple-net expense structures. According to Hall, the surveyed rates were based on either triple-net or absolute-net expense structures. But the band-of-investment technique is not predicated on a given expense structure. Hall reconciled his data to arrive at a rate of 8.50% for the subject property. *Ex. 23 at 123-25; Tr. I at 334-39, 477-78; Tr. III at 73.*

103. After capitalizing his projected NOI, Hall arrived at the following conclusion under the income approach:

NOI	$110,514
Cap Rate	<u>8.5%</u>
Rounded Value	$1,300,000

Ex. 23 at 122.

c. Reconciled value

104. Hall gave significant weight to his conclusions under both the sales-comparison and income approaches. He believed his data under the cost approach was market-supported and reliable. He also noted that the cost approach provides an opinion of value for the fee-simple interest and that buyers and sellers for this property type are conversant with construction costs. But he gave it less weight because his analysis excluded entrepreneurial profit, which typically would be expected for an income-producing property. He believed that exclusion might explain why his conclusions under the cost approach were less than his conclusions under the other two approaches. In any event, Hall reconciled his conclusions as follows:

Valuation Date	**Cost**	**Sales-Comparison**	**Income**	**Reconciled Value**
March 1, 2015	$1,200,000	$1,320,000	$1,300,000	$1,250,000

Ex. 23 at 125.

d. Trending

105. Finally, Hall trended his reconciled value for 2015 to the other valuation dates at issue. Based on our decisions in previous appeals, he believed we had been receptive to using changes in the CPI-U index as a means to do so. He explained that the CPI-U might be less relevant for other property types, such as residential. Given that the CPI-U considers consumer trends and spending, however, he thought it was reasonable to use when appraising a retail property. *Ex. 23 at 124-25; Tr. III at 47-48*.

106. Hall's adjustments were relatively small, with the largest being negative 7.83% for the 2010 assessment date. Had the CPI-U index shown a significant difference between the earlier dates and 2015, he would have questioned his conclusions. Instead, the index was consistent with other indicators in his report, such as the changes in rental rates. Based on the results of his trending analysis, Hall arrived at the following values for the remaining years:

Valuation Date	Value
March 1, 2010	$1,152,126
March 1, 2011	$1,183,021
March 1, 2012	$1,214,388
March 1, 2013	$1,232,286
March 1, 2014	$1,250,921
January 1, 2016	$1,254,219

Ex. 23 at 124-25; Tr. I at 340, 456-57.

107. Allen disagreed with Hall's approach. He explained that using changes in the CPI is not the same as adjusting for market conditions and is inappropriate for appraisal purposes. The CPI is based on the cost of goods for the average consumer, which differs from changes in the real-estate market. According to Allen, the real estate market was in substantial flux following the financial meltdown in 2008-2009. Also, using the CPI to trend a value for one year to reflect values for other years would not measure the fact that the comparable properties' ages at time of sale remained fixed, while the subject property's age changed according to the valuation date. *Tr. I at 57, 402-04*.

C. Assessments of Walgreens Properties

108. Three current or former Walgreens stores from Madison County were assessed for significantly less per square foot than the subject property in 2015. They were also assessed for significantly less per square foot than Hall's valuation opinions for the subject property. *See Exs. B-F; see also Tr. I at 233-38.*

CONCLUSIONS OF LAW AND ANALYSIS

A. CVS has not Made a Case for an Adjustment Based on the Lack of Uniformity and Equality in Assessment.

109. CVS claims that the subject property's assessment violates the uniformity-and-equality requirements from Article 1, Section 10 of the Indiana Constitution as well as the equal-protection clause of the 14th Amendment to the United States Constitution. Because CVS does not develop its equal-protection argument, we address only its state law argument.

110. CVS bases its claim on the fact that three Walgreens stores were assessed for far less per square foot than the unit values the Assessor and Hall determined for the subject property. Leaving aside the question of whether comparing the subject property to only three other properties may suffice to show an actionable lack of uniformity and equality, CVS fundamentally misreads the requirements of the Indiana Constitution and the Tax Court's holding in *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r.* In *Westfield Golf*, the Court explained that under Indiana's current assessment system, the focus is no longer on how regulations are applied, but rather on whether assessments reflect the external benchmark of market value-in-use. *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r,* 859 N.E.2d 396, 398 (Ind. Tax Ct. 2007). The taxpayer lost its uniformity-and-equality challenge because it focused solely on the base rate used to assess its driving range landing area compared to the rates used to assess other driving ranges and failed to show the actual market value-in-use for any of the properties. *Id*. at 399.

111. CVS did not offer any evidence to show the market values-in-use of the Walgreens stores. Instead, it argues that they were presumptively assessed at 100% of their market values-in-use. *Pet'r Brief at 32* (*citing* 2011 REAL PROPERTY ASSESSMENT MANUAL at 3). But the taxpayer in *Westfield Golf* also offered information about the assessments of other driving ranges, and the Tax Court found it had failed to show their market values-in-use. In any case, under CVS's own theory, our determination of its valuation claim will necessarily put the subject property on equal footing with the Walgreens stores—all will be assessed at 100% of their market values-in-use. That is true regardless of which valuation opinion we accept or whether we decide some other value. The only basis for relief would be if the Walgreens stores were assessed for less than their market values-in-use.

B. Burden of Proof and Valuation Standard

112. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment

under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in the taxpayer's successful appeal of the prior year's assessment. I .C. § 6-1.1-15-17.2(b), (d).

113. The parties agree that the Assessor had the burden for CVS's 2010 appeal. The burden for later years necessarily depends how we resolve 2010. In any case, the question is largely moot. Assigning the burden typically matters only where the parties fail to offer probative evidence from which to determine the appealed property's true tax value. Here, we have sufficient evidence to make that determination.

114. 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. § 6-1.1-31-6(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); I.C. § 6-1.1-31-5(a). 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 2; *see also*, 2002 REAL PROPERTY ASSESSMENT MANUAL 2. Evidence in an assessment appeal should be consistent with that standard. For example, USPAP-compliant market-value-in-use appraisals 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).

115. A valuation of an improved property does not reflect true tax value if the purportedly comparable sales "have a different market or submarket than the current use" of the property under appeal 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*.

C. Hall's Valuation Opinions Are More Reliable than Allen's Opinions

116. We begin by noting that the experts agree on some basic questions. They both estimated the market value-in-use of the fee-simple interest in the property. And they agreed that population density is a primary driver of demand for retail properties. More significantly, they both believed that the property's highest-and-best use and current use were the same. They both valued the property for general retail use. We disagree with CVS's argument that Hall based his analyses on sales and leases from a different market or submarket because he occasionally referred to the property's use as a drugstore and included some data relating to drugstore uses. None of Hall's comparable sales was for drugstore use. Neither were most of his comparable leases.

117. That said, they disagreed about several basic questions. Some of those disagreements did little to affect their respective valuation opinions or our determination. Those include differences over how to rate the store's construction quality for purposes of MVS's cost schedules, whether CAM reimbursements apply to freestanding single-tenant properties, and how to account for the landlord's expense for insurance and property taxes during periods of vacancy. Other differences had more profound affects. We will discuss those differences in our comparative analysis of the experts' opinions, to which we now turn.

1. Valuation Approaches

a. Sales-comparison approach

118. With one exception, the experts chose different comparable sales. Hall focused on identifying stores that were similar to the subject store's size and that had masonry construction. He expanded his search beyond Anderson and Madison County to include similar market areas. And he looked for properties that were bought for a spectrum of retail uses in order to avoid giving undue influence to any one type of user. While he agreed that leased-fee sales could be valid indicators of market value-in-use if the properties were leased at market rates, he stayed away from such sales other than the Advance Auto Parts store from Anderson he used to test the reasonableness of his conclusions.

119. Allen, by contrast, focused solely on the Indianapolis MSA. Where possible, he looked to sales of drugstore buildings. Out of his five sales and one listing, four included stores built to one particular business model's specifications (Walgreens), three of which were bought for use by a narrow category of retailers (dollar stores). He also used leased-fee sales after adjusting the sale prices to account for the difference in property rights transferred.

120. A couple of fundamental disagreements drove the experts' differing selection criteria. Those disagreements also appear in their conflicting views about whether, and how much, the property suffered from functional obsolescence. Hall believed that the building's masonry construction was desired in the marketplace. He similarly believed that its layout and design were easily adaptable to various retail uses at minimal cost, and that there were no significant super-adequacies. Allen, by contrast, did not believe that operators of general retail stores would pay for various drugstore-related design features. To the contrary, he believed that some of those features—such as the building's façade, which signifies it as a drugstore, its relative lack of windows, a pharmacy area that would require reconfiguration to convert to a sales floor, and a layout that would be difficult to convert for use by multiple retailers—actually detracted from the property's value. Tony Orlando echoed some of those points, at least from the perspective of softline retailers.

121. It may be true, as Allen and Orlando claim, that many general-retail users, especially softline retailers, prefer buildings with showroom-type exposure. But we do not view that as a major factor influencing the subject property's value. Given their selection of comparable sales and leases, Hall and Allen apparently did not consider softline retailers as a significant pool of potential users for the subject property. Indeed, the building appears to have adequate window exposure for at least some of the categories of retailers for whom it competes. This is not a former Osco store like the ones Orlando described. Indeed, the Advance Auto Parts store from Anderson that Hall used to test the reasonableness of his conclusions has a similar entrance and windows as the subject property, although its windows are full-length while the subject building's windows are not quite full length.

That store was built-to-suit for Advance, meaning at least one other class of retailers—auto-parts stores—may find the subject property's exterior design appealing.

122. We similarly afford little weight to Allen's concerns about the difficulty in reconfiguring the building for multiple users. Both experts viewed it as a single-user property in their market segmentation analyses, although Hall did include one sale where the buyer later leased a small portion to a second user. While converting the pharmacy to a sales floor may require re-doing flooring and lighting, nobody offered any data to show how significant those expenses might be other than Orlando's testimony that they are not minimal.

123. Beyond those more general observations, we have specific concerns with Allen's decision to include the Listing from Anderson as a significant piece of data. We are puzzled why he deemed it unworthy of direct inclusion in his sales-comparison analysis for the CVS #6618-02 and CVS #6656-02 appraisals but worthy of such treatment here. Indeed, in those other appraisals, he included a clearly inappropriate sale (Sale 8), to which he ultimately gave no weight, over the Listing. While Allen made much of the fact that the subject property and the Listing are both from Anderson, the store he appraised in CVS #6656-02 was also from Anderson. We also give some weight to Hall's trepidation about the Listing. The building had been vacant for more than two years. Although we have repeatedly explained that we do not reject vacant sales per se, a property's extended vacancy can reflect poorly on its relative demand.

124. That said, we have concerns about some of Hall's choices as well. Leaving aside the conflicting evidence about whether Sale 4, the restaurant from Fort Wayne, included non-realty items such as equipment and an alcohol permit, Hall did not even know what the buyer intended to use the property for. We similarly have concerns about the comparability of Sale 5—the automobile showroom.

125. Despite our concerns with those last two sales, we find Hall's consideration of a wider spectrum of buildings and users, all of which were still within the subject property's market

segment, more persuasive than Allen's focus on former Walgreens buildings and dollar stores. Allen attributes the significantly lower sale prices for his former drugstores to obsolescence from drugstore construction in general. But they may say more about the market appeal of buildings designed to meet Walgreens' specific business model and branding or about the business plans of a narrow sector of retail users. Three of Allen's six sales were purchased for use as dollar stores. Because the property is suitable for general retail use, Allen relied too much on data from dollar stores to the exclusion of other potential users.

126. That leads us to Allen's and Hall's adjustments. They largely adjusted for similar factors, such as differences in building size, age and condition, and location. The most prominent disputes involved Hall's buyer-expenditures adjustments, Hall's decision not to adjust for differences in market conditions, and Allen's quantification of his market-conditions adjustments.

127. We give some weight to the first point. Hall's analysis of buyer expenditures was largely conclusory. But he also adjusted the sale prices downward to account for the fact that the expenditures funded renovations that reduced effective ages of the buildings. Hall credibly testified that had he simply used the actual sale prices without adjustment for buyer expenditures, he would have viewed the buildings as they existed before being renovated. That likely would have led him to adjust at least one of the sale prices (Sale 5) upward to account for its inferior effective age as compared to the subject property. CVS did not really dispute his testimony on that point. While the alternative approaches may not have been exactly a wash, the difference is relatively insignificant.

128. The experts' dispute over whether to adjust for differences between the market conditions on the valuation date (or *dates* in Allen's appraisal) and the sale dates for the comparable properties is a little more significant. Hall believed that the Anderson market was mostly stable and therefore did not adjust his comparable sales or rents for market conditions. Yet he trended his March 1, 2015 opinion to reflect different values as of the other valuation

dates. Allen, by contrast, found that values had increased substantially between August 2010—the earliest of his comparable improved sales—and the later valuation dates.

129. Although we find Allen's view on the need for market-conditions adjustments more logically consistent, we harbor serious doubts about the accuracy of his adjustments. As Allen acknowledged, his data showing declining vacancy rates was one of the driving factors behind the substantial changes reflected in his real estate index. Those vacancy rates included all retail properties. We understand, as Allen testified, that the subject property competes in the broader retail market, and the data for multi-tenant properties may have some relevance. Indeed, Hall agreed that tenants for whom the subject property would compete sometimes lease space in multi-tenant retail centers. But we are persuaded by Hall's view that the subject property competes most directly with other freestanding single-tenant properties.

130. More importantly, Allen failed to explain the substantial inconsistency between the market-conditions adjustments to his land sales and those he applied to his improved sales, even though he purported to base both on the same underlying data. That is an important concern because Allen's market-conditions adjustments, which were as large as 32.7%, profoundly shaped his valuation opinions under the sales-comparison approach.

131. Although not as significant as the disputes outlined above, the Assessor also took issue with how Allen treated his two leased-fee sales. Hall and Allen agreed that appraisers may use leased-fee sales in a fee-simple appraisal if (1) the properties are leased at market rates, or (2) they make appropriate adjustments to account for the non-market leases. Allen apparently assumed those leases were at market rates and therefore did not adjust them on that ground. While he did not explicitly support his assumption, he used those same leases in his market-rent analysis under the income approach. He presumably researched those leases to assure they bore the indicia of market-rent transactions. Nonetheless, using data from the same properties makes his conclusions under the two approaches a little less independent of each other.

132. The rest of the experts' adjustments addressed similar factors, including building size and age/condition. Although they both addressed location and access/exposure characteristics, they did so in slightly different ways. And they differed on which locational and exposure factors really drive value. They agreed that population is a primary driver. But they disagreed on how much household income matters for freestanding general retail properties. While each offered a reasonable explanation for his position, neither supported it with data to help us choose between them.

133. Hall and Allen similarly disagreed over the significance of traffic volume. Hall downplayed its significance outside of specific types of retail uses. He therefore did not directly adjust for differences in traffic volume, even though several of his comparable sales had significantly higher volumes than the subject property. For some of his sales, Hall credibly explained why access and visibility issues offset the higher traffic volume. That was not true for others.

134. Although neither expert offered data to support his view on the significance of traffic volume, we are persuaded that it likely affects the value of retail properties beyond the narrow class of properties Hall identified. Regardless, traffic volume is only one aspect of a store's locational appeal, and even Allen did not give it particularly great weight in his adjustments.

135. Despite our concerns about aspects of Hall's sales-comparison analysis, we find it more reliable and persuasive than Allen's analysis. We are more confident in Hall's selection of comparable sales. While there are weaknesses to both experts' adjustments, Allen's most problematic adjustment—the one he made for differences in market conditions—profoundly shaped his valuation opinions.

b. Income approach

136. Allen and Hall disagreed on several points in their respective analyses under the income approach. As explained above, their differing views on whether to include CAM and how

to account for insurance and property taxes during vacancy did little to affect their valuation opinions. Hall stressed the need to use the same expense structure in projecting the subject property's NOI as the structure on which his market-derived capitalization rates were based. According to Hall, market surveys are based on expense structures that do not include CAM, property taxes, or insurance. So the Assessor argues that including those expenses led Allen to reach inaccurate conclusions. We find that any potential inaccuracy was mitigated by the fact that Allen did not rely exclusively on market surveys to determine his capitalization rate—he also relied on the band-of-investment method, which Hall acknowledged does not depend on any particular expense structure.

137. In any case, the effect was relatively minor. Even if Allen should not have included CAM, insurance, and taxes, the capitalized value of the landlord's share of those expenses for 2011 was only $38,729.[8] It was even less in later years, where Allen projected lower vacancy rates.

138. Instead, the experts' opposing estimates of market rent explain the lion's share of the difference in their value conclusions under the income approach. We therefore examine the relative persuasiveness of those estimates, starting with Hall's decision to use renegotiated leases, a choice Allen and CVS sharply criticized. Allen believes that tenants seeking to renegotiate existing build-to-suit leases are not typically motivated because they want to avoid losing customers and incurring other costs associated with relocating. While the tenants want to reduce rent, those relocation costs, rather than the amount for which they can rent comparable space, determine the level of reduction they will accept. Hall disagreed. Unfortunately, neither expert offered any data to support his position.

139. We do not view the question in absolute terms—that it is either always acceptable or never acceptable to use renegotiated leases in estimating market rent. Instead, we believe appraisers should use them with caution. The parties may have atypical motivations. *See Archway Mktg. Servs. v. County of Hennepin*, 882 N.W.2d 890, 897 (Minn. 2016) (*quoting*

[8] Allen's CAM, taxes, and insurance expenses totaled $31,350. Based on his 10.5% vacancy and collection loss, the landlord's share was $3,292. Capitalized at his 8.5% rate, that equals $38,729.

THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 466 (14th ed.) ("'[L]ease renewals or extensions negotiated with existing tenants should be used with caution' because existing tenants may be willing to pay higher rents to avoid relocating or may be offered lower rents to avoid vacancies[.]"). More importantly, the leased space may not have been exposed to the market.

140. Hall appears to have exercised a little more caution in using the renegotiated leases here than he did in his appraisals of CVS #6618-02 and CVS #6656-02, where he simply testified that he could not conceive of any reason a tenant would agree to pay above-market rent. But he still did not address whether the renegotiated leases were exposed to the market.

141. That said, Hall reconciled to rent ($12/sq. ft.) that was in the middle of the range ($10/sq. ft. to $14/sq. ft.) indicated by the three remaining leases. We find that those properties were sufficiently comparable to the subject property for their leases to tell us something about the subject property's market rent.

142. While Allen did not use renegotiated leases, one of his comparable leases was for a building that was approximately 40% larger than the top end of the range from his market segmentation analysis. Another was the Listing for the former Walgreens from Anderson. We have already explained our qualms with Allen's inclusion of that data.

143. Two other leases were for space in retail centers. As already explained, we agree with Hall that there are significant differences between the two property types and that the subject property most directly competes with other freestanding single-tenant properties. Allen testified that there are some advantages to leasing space in retail centers, such as other tenants drawing customers to the location. But he also testified that space in retail centers might rent for more or less than freestanding buildings, depending on its location within the center. Yet he did not expressly analyze any of the leases based on the location of the space within the retail centers, focusing instead on the arterial attributes of the centers themselves.

144. Of the remaining four leases, all were to dollar stores, two of which were former Walgreens buildings that Allen used in his sales-comparison analysis. Including the Listing, five of Allen's eight leases involved former Walgreens buildings, dollar store tenants, or both, meaning Allen's lease data suffers from the same potential distortions as his sales-comparison data. Indeed, as we have already pointed out, his inclusion of the same data in both approaches tends to make them less independent of each other.

145. As for adjustments, Allen considered mostly the same factors as, and used methodology that was similar to, the factors and methodology he applied under the sales-comparison approach. He made much smaller market-conditions adjustments because his real-estate index considered only changes in asking rental rates, which remained mostly stable for the Indianapolis MSA. But he failed to adjust for differences in construction quality, even though one of the buildings (Lease 3) had no masonry other than its façade. Similarly, the building in Lease 6 had no storefront windows and was therefore inferior to the subject building by Allen's own standards. Yet he did not adjust the lease rate for that difference.

146. Unlike Allen, Hall did not quantify any adjustments, choosing to analyze the leases qualitatively instead. He did not explain why he chose to adjust his comparable sales quantitatively but to analyze his comparable leases qualitatively. In any case, his qualitative analysis was not as thorough. While he indicated that access/exposure was an important element of comparison, he explicitly addressed that element for only one property. And the comparable properties did not bracket the subject property in terms of location appeal—the seven properties for which he expressly rated location were all similar or superior to the subject property. All three properties with non-renegotiated leases were in superior locations, although they all had inferior construction quality.

147. We agree with the experts that the income approach is generally a reliable way to value a property like the subject property. Nonetheless, we have significant concerns with Allen's choice of comparable leases as well as with some of his adjustments. We find Hall's non-

renegotiated leases more persuasive, although the lack of explanation concerning his qualitative analysis detracts somewhat from the reliability of his conclusions.

c. Cost approach

148. Hall and Allen estimated different land values. And they spent considerable time disputing which MVS quality grade the subject store's construction most closely resembled—average or good. Both views are plausible. The two descriptions substantially overlap, and the store has elements that match each.

149. But in terms of explaining the gulf between the experts' conclusions under the cost approach, all other issues pale in comparison to their disagreement about whether the property suffered from obsolescence. We agree with Allen that the market may not pay for some aspects of drugstore construction, such as drive-throughs and refrigeration. Some characteristics, such as the subject store's relative lack of windows, might also detract marginally from its utility for general retail use, although we have seen no evidence that they do so nearly to the extent Allen posits. Likewise, while there might have been some external obsolescence in the years immediately after the recession, we are not persuaded that it was anywhere near the level Allen claims.

150. In any case, we have serious misgivings about Allen's obsolescence quantification. As Allen himself acknowledged, that quantification depended heavily on his estimate of market rent under the income approach. We have laid out our concerns with that estimate. We do give some credence to his breakout of obsolescence attributable to super-adequacies—a class-C drugstore costs more to build than a class-C general retail store. But we give no weight to his calculations breaking out a portion of his claimed external obsolescence. They rest on his largely conclusory assertions that markets with vacancy rates above 5% are oversupplied and that capitalization rates above 7.5% meant a market was still recovering from the recession's credit crunch. In fact, as Hall's appraisal shows, vacancy in the market for single-tenant freestanding properties was actually below 5% for all the years in question.

151. Ultimately, Allen gave his conclusions under the cost approach little weight. In light of our concerns about his obsolescence quantification, we do too. Hall's failure to include any obsolescence, on the other hand, weakens his cost-approach analysis as well. Regardless, he did not completely disregard his conclusions under that approach, and they are fairly close to the range indicated by his conclusions under the other two approaches.

d. Trending

152. Finally, the experts disagreed about how best to address the multiple valuation dates at issue in these appeals. Allen offered a separate analysis for each year using the same underlying data but making different market-conditions and age adjustments, while Hall valued the property as of March 1, 2015, and used the CPI-U to trend that value to the other valuation dates. Although we find Allen's approach conceptually sounder, it was not that much better in practice. He did not really appraise each year separately. Instead, he used the same comparable sales and leases for all the years at issue. That meant he used data from as many as five-to-six years after the valuation date in some instances. Market participants could hardly have anticipated or relied on that data. In a sense, Allen's market-conditions adjustments performed a similar function as Hall's trending analysis, albeit in a more nuanced way. In any case, we have outlined our serious doubts about the accuracy of those adjustments in his sales-comparison analysis.

153. Nonetheless, we recognize the weaknesses in Hall's approach. We agree with Allen and CVS that the CPI-U, which is based on changes in the price of consumer goods rather than real estate, is not a particularly effective method to trend property values from one date to another. But Hall testified that the changes in that index generally corresponded with the indicators he examined for the local real-estate market. Thus, while using the index is less than ideal, we find it is sufficient to support Hall's trended values.

2. Overall Credibility

154. Despite their flaws, both experts' valuation opinions carry some probative weight. Taken as a whole, we find Hall's judgments, including his choice of comparable sales and leases, more persuasive than Allen's judgments. We therefore find that Hall's valuation opinions are the most reliable evidence of the subject property's true tax value.

C. Conclusions

155. Because we find Hall's valuation opinions more credible, we order the assessments changed to the following amounts, which reflect Hall's conclusions rounded to the nearest $100:

Valuation Date	Value
March 1, 2010	$1,152,100
March 1, 2011	$1,183,000
March 1, 2012	$1,214,400
March 1, 2013	$1,232,300
March 1, 2014	$1,250,900
March 1, 2015	$1,250,000
January 1, 2016	$1,254,200

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

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>.

Year	**Petition #**	**Parcel #**
2010	48-003-10-1-4-00479-16	48-11-14-202-081.000-003
2011	48-003-11-1-4-00480-16	48-11-14-202-081.000-003
2012	48-003-12-1-4-00483-16	48-11-14-202-081.000-003
2013	48-003-13-1-4-00463-16	48-11-14-202-085.000-003
2013	48-003-13-1-4-00464-16	48-11-14-203-011.000-003
2013	48-003-13-1-4-00465-16	48-11-14-202-078.000-003
2013	48-003-13-1-4-00468-16	48-11-14-202-086.000-003
2013	48-003-13-1-4-00472-16	48-11-14-202-079.000-003
2013	48-003-13-1-4-00478-16	48-11-14-202-080.000-003
2013	48-003-13-1-4-00484-16	48-11-14-202-081.000-003
2013	48-003-13-1-4-00486-16	48-11-14-202-082.000-003
2013	48-003-13-1-4-00507-16	48-11-14-202-083.000-003
2013	48-003-13-1-4-00492-16	48-11-14-202-084.000-003
2014	48-003-14-1-4-00462-16	48-11-14-203-011.000-003
2014	48-003-14-1-4-00466-16	48-11-14-202-078.000-003
2014	48-003-14-1-4-00467-16	48-11-14-202-085.000-003
2014	48-003-14-1-4-00469-16	48-11-14-202-086.000-003
2014	48-003-14-1-4-00473-16	48-11-14-202-079.000-003
2014	48-003-14-1-4-00475-16	48-11-14-202-080.000-003
2014	48-003-14-1-4-00485-16	48-11-14-202-081.000-003
2014	48-003-14-1-4-00487-16	48-11-14-202-082.000-003
2014	48-003-14-1-4-00490-16	48-11-14-202-083.000-003
2014	48-003-14-1-4-00494-16	48-11-14-202-084.000-003
2015	48-003-15-1-4-02234-16	48-11-14-202-081.000-003
2016	48-003-16-1-4-00650-17	48-11-14-202-081.000-003