REPRESENTATIVE FOR PETITIONER: Derik Edwards, Tax Representative

REPRESENTATIVE FOR RESPONDENT: Brian Cusimano, Attorney

BEFORE THE
INDIANA BOARD OF TAX REVIEW

Jeff Boat LLC, and John R. Fox Jr. Trust,	)	Petition:	*See attached*
Petitioners,	)	Parcel:	*See attached*
v.	)	County:	Clark
Clark County Assessor,	)	Assessment Year:	2012
Respondent.	)		

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

August 8, 2016

FINAL DETERMINATION

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

INTRODUCTION

1. The parties offered competing valuation opinions from two appraisers—Lawrence Mitchell for the Petitioner ("Jeff Boat"),[1] and J. David Hall for the Clark County Assessor. Both appraisals are probative, but we find Hall provided more support for his conclusions and was more persuasive.

[1] Jeff Boat LLC owns six of the parcels at issue. The John R. Fox Jr. Trust owns one parcel, of which Jeff Boat LLC appears to be the lessee. For convenience, we refer to the Petitioners collectively as "Jeff Boat."

PROCEDURAL HISTORY

2. Jeff Boat timely filed notices for review with the Clark County Property Tax Assessment Board of Appeals ("PTABOA") for the 2012 assessment year. The PTABOA issued determinations, which when combined, value the property as follows:

Land: $2,640,100 **Improvements:** $2,218,000 **Total: $**4,858,100

3. Jeff Boat then timely filed Form 131 petitions with the Board. Our designated Administrative Law Judge, Andrew Howell ("ALJ"), heard the matter on May 9, 2016.

4. Derik Edwards represented Jeff Boat. Brian Cusimano represented the Assessor.

5. Scott Dant, Director of Tax and Capital at American Commercial Barge Line (sister company of Jeff Boat), Lawrence Mitchell, MAI, and J. David Hall, MAI, testified under oath.

6. The following exhibits are part of the record:

Petitioner's Ex. 1:	Appraisal report prepared by Lawrence Mitchell,
Petitioner's Ex. 4:	Photo of a "temporary building" located on the subject property,
Petitioner's Ex. RE-1:	Article titled "Colonial purchases neighboring shipyard for $10 million."
Respondent's Ex. A:	Appraisal report prepared by J. David Hall and Michael Lady,
Respondent's Ex. B:	Satellite photos of 1830 Carver Drive, Rocky Point, NC,
Respondent's Ex. C:	Listing for 1830 Carver Road, Rocky Point, NC,
Respondent's Ex. D:	Flood map,
Respondent's Ex. E:	Press release titled "CB Richard Ellis Facilitates Sale of 238,085 SF Industrial Building in Warren, RI.

7. The record also includes the following: (1) all pleadings, briefs, and documents filed in the current appeals, and (2) all orders and notices issued by the Board or our ALJ.

OBJECTIONS

8. During cross-examination of Hall, the Assessor objected to the relevance of a question regarding other methods Hall could have used to extract a land value. The ALJ overruled the objection. Because Hall's understanding of appraisal theory is relevant, we uphold the ALJ's ruling.

9. Jeff Boat objected to Respondent's Ex. C, a listing of one of Mitchell's comparables. Jeff Boat argued that the document did not show how long the property had been listed, or whether any work had been performed on the property since the assessment date or the sale date. We overrule the objection, finding it goes to the weight of the evidence rather than its admissibility.

10. Jeff Boat also objected to Respondent's Ex. D, a flood map of one of Mitchell's comparables, because it was from 2014 and there was no information about whether the map had changed since the assessment date. We overrule the objection, finding it goes to the weight of the evidence rather than its admissibility.

FINDINGS OF FACT

A. The Subject Property

11. The property is an industrial barge- and boat-manufacturing facility located at 1701 Utica Pike in Jeffersonville, Indiana. Jeffersonville is across the Ohio River from Louisville, Kentucky and is part of the Louisville Metropolitan Statistical Area (MSA). The subject property has frontage on the Ohio River, which is critical to its operations. It has 61.1 acres of land and 33 primary buildings, as well as some smaller accessory buildings. There is some dispute over the exact square footage of the buildings. Mitchell relied on the estimates from the Assessor. Hall looked at the Assessor's records, but also checked them with physical inspections, GIS, Jeff Boat's records, and Google Earth. He found five buildings, with a total of 34,960 sq. ft of building area, which were not recorded in

the Assessor's records. Hall did not include temporary structures in his calculations. We find Hall's calculation of 362,831 sq. ft. of primary building area and 4,356 sq. ft of accessory building area more reliable than the calculation Mitchell used.[2]

12. The buildings are in average condition for their age. Many of the buildings are over 50 years old, while some are less than 20. Both appraisers agreed the buildings had several years of remaining economic life as of the assessment date. The buildings are primarily industrial in nature, but some are devoted to office space. The property's design is inefficient compared to a property with fewer, larger buildings. According to Scott Dant, Jeff Boat would have preferred to have most or all of the production line under one roof, but such a project was not financially feasible. Most of the property is either in "floodway" or "flood fringe." *Dant testimony; Mitchell testimony; Hall testimony; Pet'r Ex. 1 at 2, 30-43; Resp't Ex. A at 1-8.*

B. Mitchell Appraisal

13. Jeff Boat hired Lawrence Mitchell, of Valbridge Property Advisors, to appraise the market value-in-use of the fee simple interest of the subject property.[3] Mitchell has been an appraiser for approximately 22 years, and he is a Member of the Appraisal Institute ("MAI"). He is certified as an appraiser in Indiana, Ohio, and Kentucky and has appraised about 200 manufacturing properties. He is also a member of various professional organizations, and has previously served as the president of some of these organizations. He certified that he prepared his appraisal in conformance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Mitchell testimony; Pet'r Ex. 1 at 71-72, 87-88.*

---

[2] In response to cross-examination, Hall admitted that one building may have had a small bump-out that was not accounted for in his analysis. He testified that this would have negligible effect on his opinion of value, given the amount of depreciation.

[3] Michael Nitowski, an appraiser trainee, assisted Mitchell.

1. Mitchell's Research and Market Overview

14. Mitchell found that the local real estate market was weak in 2012 because of the lingering effects of the recession. That was particularly true for manufacturing facilities. However, he also reported that the greater Louisville area had one of the lowest unemployment rates in the country compared to other metropolitan areas. He concluded that overall the area was a positive environment for residents and businesses. *Mitchell testimony; Pet'r Ex. 1 at 6-12*.

15. In addition to the local market, Mitchell also examined the industrial and shipyard markets. As of the assessment date, he found that most shipyards were approximately 60-80 years old, and that there were no recently built facilities. He also found a decline in available industrial space within a 50-mile radius of the subject property. Taken together, he believed these facts indicated that market participants were not considering the cost approach. He also explained that the subject was a limited market property, and that the lack of market exchanges made quantifying important cost approach difficult:

> Lastly, support that the cost approach is not a credible method is the complete lack of market support for critical parameters such as entrepreneurial incentive and external obsolescence. In property type markets where regular transactions occur such as office, retail and warehousing, estimating these parameters based on market participant actions is a reasonably reliable method. However, in limited market properties where transactions occur much less frequently and the motivation of the participants are less consistent; credibly estimating these parameters is considerably weakened. *Pet'r Ex 1 at 48.*

Mitchell similarly did not perform the income approach because he believed market participants would not consider it, and there was insufficient lease information available. *Mitchell testimony; Pet'r Ex. 1 at 13-15; 47-48; 61.*

16. Mitchell concluded his market overview by describing the "Port of Indiana – Jeffersonville," an industrial maritime facility on the Ohio River, close to the subject property. According to Mitchell, many of the properties in the Port "can be obtained at below market pricing…via economic incentives based on job creation." In his view, this

skewed the market and made the subject property less desirable because it did not have the same economic incentives. *Mitchell testimony; Pet'r Ex. 1 at 16-19.*

2. Mitchells' Valuation

17. Mitchell began his sales-comparison analysis by defining the market as industrial manufacturing facilities on navigable waterways, with a focus on properties east of the Mississippi River. He made no distinction between light and heavy manufacturing. Mitchell also posited that because the subject was a limited market property, it would compete with buyers beyond the local market. For the same reason, he used sales further from the valuation date than he otherwise would have. He ultimately settled on three comparable sales. Based on the opinions of brokers or property owners, Mitchell believed that all of these comparables were on waterways suitable for barge manufacturing. He did not explain what those brokers and proper owners based their opinions on. And he did not examine the relative ship traffic of any of the rivers. All of the comparables had less river frontage than the subject property. However, Mitchell believed this factor was offset by the comparable properties having more even and functional shapes, as opposed to the subject property's long and narrow dimensions. *Mitchell testimony; Pet'r Ex. 1 at 49-50.*

18. The first comparable Mitchell used was from Nashville, Tennessee, on the Cumberland River.[4] It was a 350,000 sq. ft. facility with 11 acres of land. It sold in December 2006 for $3,050,000, or $8.71/sq. ft, to a "warehousing industrial user." It is not apparent from the record what the exact uses were before and after the sale. However, it appears that at least a portion of the facility was eventually leased as a go-kart facility. He applied a 2% annual adjustment for market conditions, or 10.5%. Mitchell's support for this, as well as for all of his other market conditions adjustments, was his professional opinion. Mitchell also made adjustments for clear height, construction quality, percent of office finish, and land to building ratio, resulting in a net positive adjustment of 20.6% for physical

[4] Although Mitchell did not himself report the name of the river, both representatives reference the property as being on the Cumberland.

attributes. Mitchell derived most of his physical adjustments from Marshall & Swift unit prices. He arrived at an adjusted price of $11.61/sq. ft. *Mitchell testimony; Pet'r Ex.1 at 51-57, 73-74.*

19. Mitchell's second comparable was on the Ohio River in Evansville, Indiana. It was a 139,148 sq. ft. industrial facility with 17 acres of land. It sold in June 2010 for $2,600,000, or $18.69/sq ft. It is not apparent from the record how the property was used before and after the sale. Mitchell applied a 2% annual adjustment for market conditions. He also adjusted the sale price by 10% to reflect that only 33% of the comparable property was located in a flood zone, compared to 100% of the subject property. He determined the flood zone percentage for the comparable property based on a conversation with the broker to the sale. The Assessor presented Mitchell with a 2014 flood map and asked him whether that map showed a larger proportion of the comparable property in the flood zone than the 33% he reported. Mitchell said that he had no reason to question the broker, but that he did not independently review the flood map. *Mitchell testimony; Pet'r Ex.1 at 51-57, 75-76; Resp't Ex. D.*

20. The third comparable Mitchell used was located in Rocky Point, North Carolina, on the Cape Fear River. It was a 448,687 sq. ft. industrial facility on 58 acres of land, with more river frontage than the subject. It was constructed as a yacht manufacturing facility but was apparently a "cosmetics or fragrance operation" when it sold in March 2012 for $5,250,000, or $11.70/sq. ft. The immediate subsequent use is not in the record. Mitchell made a small adjustment for market conditions. He also made adjustments for age/condition, construction quality, clear height, percent office finish, land to build ratio, and flood zone. While page 55 of Mitchell's appraisal indicates he felt a size adjustment was necessary, Mitchell admitted that he did not make such an adjustment. He did not explain why. The individual adjustments he did make resulted in a net physical adjustment of negative 33.6%, which yielded an adjusted price of $7.76/sq. ft. *Mitchell testimony; Pet'r Ex.1 at 51-57, 77-78; Resp't Ex. B, C.*

21. Mitchell also presented sales of boat manufacturing facilities as additional support. These facilities were not located on navigable waterways. They sold for prices ranging from $7-$9/sq. ft. At least one of these comparables was sold with a lease in place. *Mitchell testimony; Pet'r Ex. 1 at 59-60; Resp't Ex. E.*

22. Finally, Mitchell reconciled his three sales of riverfront properties. He found that while Comparable 2 had the most similar location, Comparables 1 and 3 were more physically similar. He also noted that Comparable 2's purchase price may have represented some additional personal property. For these reasons, he gave slightly less weight to Comparable 2 and arrived at a reconciled value of $11.00/sq. ft., which yielded a total value of $3,820,000. He apparently rounded this figure for a conclusion of $3,800,000. *Mitchell testimony; Pet'r Ex 1 at 58, 62-63.*

B. Hall Appraisal

23. The Assessor hired J. David Hall, of Integra Realty Resources, to appraise the true tax value of the fee simple interest in the property.[5] He holds MAI and AICP[6] designations and has been a general appraiser for seven years. He has appraised industrial and manufacturing properties and was previously a city and county planner. He certified that he prepared his appraisal in conformance with USPAP. *Hall testimony; Resp't Ex. A at 190-96, Addendum A.*

1. Hall's Research and Market Overview

24. Hall valued the property as a heavy manufacturing facility. He noted that the property relied on the Ohio River, which he considered highly significant. He explained that the subject property was a limited market property because properties of the same type are infrequently exchanged. According to Hall, between 2010 and 2013 Clark County's population grew at a faster rate than both the state and the Louisville MSA. He pointed to low unemployment, high median household income, and growing gross domestic

[5] Michael Lady, MAI, cosigned the report and assisted in its development.
[6] American Institute of Certified Planners.

product, as well as other factors, as signs of an improving local economy. Hall found that in 2012 the demand for industrial property was fairly strong, as vacancy was declining. He described Clark County's economy as of the assessment date as "fairly healthy." *Hall testimony; Resp't Ex. A at 13-32.*

25. He identified the local market as the Ohio River Corridor within the Louisville MSA. He noted that the subject property had good interstate access in addition to its river access. Hall explained that the Ohio River is part of the M70 marine highway, which spans several states. He reported that the M70, and particularly the segment where the subject property is located, has very high river traffic. This activity includes significant barge transportation, which has been increasing. *Hall testimony; Resp't Ex. A at 13-32.*

26. Hall developed both the cost and sales-comparison approaches. He considered the cost approach more reliable because the subject was a limited market property. He noted that appraisers often use the cost approach when they are appraising a new or nearly new property. However, he explained that it is also very relevant for extremely old properties. In those situations, most of the value of the property is in the land, which the cost approach independently values. In addition, he noted that the subjectivity required when estimating depreciation is less important to the final valuation when the improvements have a low contributory value. Like many industrial facilities, the subject property was developed incrementally over an extended period. Owners and users of this type of property are very educated in the areas of construction and building costs and would always consider the cost approach. *Hall testimony; Resp't Ex. A at 11-12, 130.*

2. Hall's Cost Approach

27. Hall began his analysis by valuing the land. He could not find any comparable sales of riverfront property in Clark County, so he expanded his market area. He used three different methods to develop his land valuation: price per acre based on regional sales, price per front foot based on regional sales, and price per acre based on local sales. He noted that the subject property was made up of several parcels ranging from 3 to 13 acres.

He believed that each of those parcels could be sold individually, which he considered in his valuation. *Hall testimony; Resp't Ex. A at 131.*

28. For his first method, Hall focused on sales of industrial land located on navigable waterways in the subject property's region. He ultimately settled on seven sales of properties from Ohio, Michigan, Kentucky, and Illinois. They were between 6.8 and 44.8 acres, with sale dates ranging from July 2006 to December 2012. The sale prices ranged from $48,000/acre to $88,884/acre. Most were river or waterfront, although one sale was slightly off the Mississippi River, and all were either entirely or partially in flood zones. Some of the sales were to owners of adjacent properties, but Hall did not find any evidence that the prices were above market. Hall did not personally interview the buyers or sellers, but he gathered data from affiliate offices of his firm. Appraisers at those offices had verified that these sales did not represent any extraordinary motivation on the part of buyers and sellers beyond what he accounted for in his adjustments. That conclusion was supported by the fact that the sales prices of those sales were within the range of his entire data set. *Hall testimony; Resp't Ex A at 131*-*43.*

29. Hall also made qualitative adjustments for conditions of sale, market conditions, location, size, and physical characteristics. He gave specific explanations for each adjustment he made. In particular, he explained that he adjusted several of the sales upward because they were located in rural areas, as opposed to a metropolitan area like the subject property. He also made a negative adjustment to one sale, because its location had superior interstate access and was in a more heavily industrial area as compared to the subject property. *Hall testimony; Resp't Ex A at 131*-*43.*

30. In his reconciliation, Hall gave the greatest weight to the two sales he rated most similar to the subject property. The first was a 44.8 acre property located on the Ohio River in Jefferson County, Ohio. It sold in December 2012 for $55,754/acre. He specifically noted that it had an inferior location to the subject property but was otherwise fairly similar. The second was a 26.1 acre property on the Rouge River in Detroit, Michigan. It sold in July 2006 for $53,619/acre. He adjusted this sale down for location and size,

and up for market conditions. He also made an upward adjustment for conditions of sale, because he posited the seller probably had additional motivation based on the long exposure time. Hall arrived at a reconciled value of $55,000/acre, or $3,360,000. *Hall testimony; Resp't Ex. A at 131-43.*

31. Next, Hall developed a value based on river frontage using the four sales with the greatest frontage from his prior analysis. These sold for between $462 and $1,069 per front foot. He reconciled these values to $700 per front foot, or $3,390,000. *Hall testimony; Resp't Ex. A at 145-46.*

32. Finally, Hall performed a qualitative analysis of land sales in Clark County. Because of the lack of comparable sales in the local area, he expanded his parameters and included both riverfront residential, and some non-riverfront properties. The properties ranged from 3.15 to 55.00 acres. They sold between January 2011 and June 2013 for prices ranging from $42,804/acre and $186,881/acre. *Hall testimony; Respt' Ex. A at 147-48.*

33. Hall adjusted the comparables for market conditions, location, size, and physical characteristics. He provided specific explanations for each adjustment. In his reconciliation, he gave the greatest weight to the largest comparables, arriving at a reconciled value of $55,000/acre, or $3,360,000. *Hall testimony; Respt' Ex. A at 153-56.*

34. He reconciled his three techniques, giving the most weight to his per acre valuation of regional land sales because he believed this method had the best quantity and quality of data. Hall ultimately arrived at a value of $3,360,000 for the subject land. *Hall testimony; Respt' Ex. A at 156.*

35. Turning to the improvements, Hall calculated a total gross building area by using a combination of spot measurements, property record cards, GIS, and Google Earth. He found several buildings that were not in the Assessor's records. Based on his inspection, he assigned the buildings and site improvements to classifications under Marshall

Valuation Service. He considered most of the buildings as low cost and noted that Jeff Boat adequately maintained the property. *Hall testimony; Resp't Ex. A at 157-64.*

36. Based on his experience and knowledge of the industry, Hall estimated an entrepreneurial profit of 10% of replacement cost, which he stated was at the low end of the range. After applying this to his cost calculations, he arrived at a total replacement cost of $19,385,753. *Hall testimony; Resp't Ex. A at 164.*

37. Hall used the age-life method to estimate depreciation. Because he inspected the property roughly four years after the assessment date and all the buildings were still in use, he assumed that the buildings had a remaining life of four years as of the assessment date. This resulted in depreciation ranging from 80-90% for most of the primary buildings. He noted that his methodology might have led him to over-estimate depreciation in some cases, because many of the buildings may have had more than four years of remaining economic life as of the assessment date. His total depreciated replacement cost came to $2,850,938. While some functional obsolescence was built into the depreciation, external obsolescence was not. Based on his analysis of the market, Hall believed external obsolescence was not appropriate in this case. After adding the depreciated improvement cost to his land value, Hall arrived at a total of $6,210,000 under the cost approach. *Hall testimony; Resp't. Ex. A at 167-71.*

3. Hall's Sales-Comparison Approach

38. In addition to the cost approach, Hall also developed the sales-comparison approach. Because the subject was a limited market property, he found it necessary to broaden the spectrum and look for comparable properties from multiple angles. This included expanding the geographic area as well as looking at industrial properties not located on a river, but with land to building ratios comparable to the subject property. *Hall testimony; Resp't Ex. A at 173.*

39. Hall first valued the subject property by using a sale of a shipyard from Savannah, Georgia. The property was 15.56 acres with 261,483 sq. ft of building area. It sold for $10,000,000 in July 2010. Hall reported that it had significant deferred maintenance. The cost to cure the deferred maintenance and to build waterfront infrastructure resulted in an effective sale price of $20,000,000. Hall also made a large adjustment for location. He quantified this adjustment by developing a land value for riverfront land in Savannah, which he then compared to his previously developed subject land value. He also factored in the relative contributory value of the improvements. He determined that a negative adjustment of 48% for location was appropriate. He further adjusted the sale price downward by 10% because the property had fewer overall buildings than the subject property, and thus a more efficient layout. He arrived at a final indicated value of $16.10/sq. ft., which resulted in a value of $5,840,000 for the subject property based on this sale. Jeff Boat presented some evidence that this sale may have been a result of a foreclosure. According to Hall, that fact would not affect his final opinion of value, because he did not greatly rely on this sale. *Hall testimony; Resp't Ex. A at 173-79.*

40. In addition, Hall also did a sales-comparison analysis using heavy manufacturing facilities. He selected five facilities from around the eastern United States. They ranged from 38.71 to 264.00 acres and had between 231,500 and 2,900,000 gross square feet of building area. They sold between March 2010 and January 2014, for prices ranging from $15.12/sq. ft. to $23.56/sq. ft. *Hall testimony; Resp't Ex. A at 180-82.*

41. He made qualitative adjustments for market conditions, location, size, building to land ratio, and physical characteristics. He provided specific explanations for each adjustment. In his reconciliation, Hall gave the greatest weight to a steel manufacturing facility located in Charlotte, North Carolina, because of its use as well as its land to building ratio, which was identical to that of the subject. He arrived at a reconciled value of $16.50/sq. foot, which resulted in a total value of $5,990,000 for the subject property. *Hall testimony; Resp't Ex. A at 183-86.*

42. Finally, Hall reconciled the shipyard sale with the sales of heavy manufacturing facilities, giving more weight to the latter based on the quantity of data. He arrived at a final value of $5,990,000 under the sales comparison approach. *Hall testimony; Resp't Ex. A at 187*.

4. Hall's Reconciliation

43. Hall determined the income approach was not appropriate because properties like the subject are typically owner-occupied rather than rented. He gave primary consideration to his cost approach and used the sales-comparison approach as a test of reasonableness because of the limited data available. After reconciling the two approaches, he arrived at a final conclusion of $6,100,000. *Hall testimony; Resp't Ex. A at 188-89*

CONCLUSIONS OF LAW AND ANALYSIS

A. Burden of Proof

44. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See* I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b). Here, the evidence indicates and the parties agree that Jeff Boat has the burden of proof. We note that in cases like this, where both sides offer appraisals from highly qualified experts, the burden question is largely theoretical. We must weigh the evidence to determine what most persuasively shows the true tax value of the subject property for the assessment date at issue.

B. Appraisal Methodology

45. This was a difficult assignment. Both appraisers agreed the subject property had a limited market, but they disagreed over how best to appraise it. Mitchell argued that the cost approach was inappropriate because it is difficult to estimate entrepreneurial profit and external obsolescence when there are few market transactions to rely upon and "the motivation of the participants are less consistent." We agree with Mitchell that those issues make some aspects of the cost approach less reliable. Nevertheless, we fail to see why those same issues do not have an even greater affect on the reliability of the sales-comparison approach. While Mitchell only points to certain parts of the cost approach as being problematic, the entire sales-comparison approach suffers from the lack of reliable sales. We are also persuaded by Hall's opinion that even in older properties, the cost approach is relevant when the improvements have a comparatively low contributory value. In particular, we note that because Hall used a sales-comparison approach to estimate land value, a significant portion of any external obsolescence would have been reflected in that valuation.

C. Mitchell's Opinions

46. The Assessor makes several additional criticisms of Mitchell's appraisal, the most convincing of which we examine here. First, the Assessor argues that all of Mitchell's comparables had less river frontage than the subject property. Mitchell's argument that the comparables had increased utility because of their shapes blunts that criticism to some degree.

47. The Assessor specifically criticized Mitchell for making a 10% adjustment for flood zone to his second comparable, which he based on his conversation with the broker. In an attempt to show Mitchell erred, the Assessor presented a flood zone map of this comparable, but the map did not have sufficient detail for us to base any definite conclusions on it. We give little weight to Mitchell's reliance on the broker's opinion

however, because there is no foundation in the record for it. Thus, even though the Assessor's evidence was ambiguous, we find Mitchell's adjustment unsupported.

48. We are also troubled that Mitchell did not make a size adjustment to Comparable 3 after he concluded it was necessary. Although Mitchell admitted to this discrepancy under cross-examination, he did not explain it. That affects the overall credibility of Mitchell's analysis and the reliability of his opinion.

49. The Assessor also pointed to other differences between the comparable properties and the subject, such as location, size, and use. Mitchell provided only conclusory explanations of why the locations of the sales were comparable to the subject. In addition, he admitted that he did not consider some factors such as river traffic. Because Mitchell relied on only three sales, these differences could have significantly affected his conclusions.

D. Hall's Opinions

50. Jeff Boat offered a number of criticisms of Hall's appraisal. They can largely be broken down into three categories: methodology, the lack of comparability of the sales, and the need for additional adjustments.

51. As discussed above, we are persuaded that Hall's reliance on the cost approach was appropriate, and more importantly, was generally more reliable than the sales-comparison approach in this case. Jeff Boat specifically asserted that Hall failed to account for the functional obsolescence present in the subject property. It pointed to Scott Dant's testimony that the multi-building design was inefficient. We first note that Hall testified that his depreciation analysis included some functional obsolescence. While it is certainly possible that more functional obsolescence existed, Jeff Boat did not attempt to quantify the amount. In addition, many of the facilities in Hall's sales-comparison analysis also had multi-building designs, and in at least one case, Hall adjusted a sale downward because it was more efficient than the subject property. Because Hall's sales-

comparison conclusions were relatively close to his cost conclusions, we are not persuaded that there was significant additional obsolescence.

52. Jeff Boat also criticized Hall's appraisal based on what it described as the lack of comparability of many of his sales, both in this land valuation and his sales-comparison analysis. It points specifically to the use, river frontage and access, location, and size of the comparables as compared to the subject property. Hall acknowledged the deficiencies of his comparables, and explained that he attempted to provide as much information as possible given the limits of the available data. We do not fault Hall for this. On the contrary, it was appropriate for Hall to present as much support for his conclusions as he felt necessary. Though some of Hall's data sets may not be particularly persuasive when examined individually, when taken as a whole we find them to be reliable support for his opinion of value.

53. Finally, Jeff Boat pointed out that many of the properties Hall used were sold to adjacent property owners, and in one case, as a result of a foreclosure. Jeff Boat suggested that Hall should have adjusted many of these sales for extraordinary buyer or seller motivation. While it is possible that a sale to an adjacent property owner may be the result of atypical motivations, Hall persuasively supported his conclusion that the sales at issue are not influenced by atypical motivations and were at market level. Absent evidence to the contrary, we will not simply assume atypical motivation under these circumstances.

E. Conclusions

54. Both appraisers offered probative evidence of the value of the property. We are more persuaded by Hall's appraisal for two primary reasons: his reliance on the cost approach and the thoroughness of his analysis.

55. As explained above, we are persuaded that the cost approach is more appropriate than the sales-comparison approach in this case. In particular, we note that all of Mitchell's explanations for why the cost approach is unreliable appear even more applicable to the

sales-comparison approach. Thus, Hall's reliance on the cost approach as the primary indicator of value leads us to put more weight on his opinions.

56. In addition, Hall performed a more thorough and complete appraisal, both in the amount of data presented and in the analysis of that data. Mitchell relied primarily on three improved sales of riverfront property, with some additional support from inland boat manufacturing facilities. In contrast, Hall presented a cost approach in which he used multiple methods to calculate land value, as well as a sales-comparison approach. Where Mitchell generally relied on his experience as support for his adjustments, Hall almost always provided specific explanations for why he made each adjustment. Overall, we find Hall more credible and his opinions more reliable.

57. The subject property has over 360,000 sq. ft of industrial building space (of which almost 35,000 was not previously assessed) and 61.1 acres of land on the Ohio River. As of the assessment date, it was in full use as a barge manufacturing facility, and the record shows it was still in use four years later. While the buildings are old, Hall depreciated all of the improvements significantly in his cost analysis. Both appraisers agreed the buildings had some remaining economic life as of the assessment date. Thus, we are skeptical that the improvements could have a lower value than Hall estimates. In addition, we find no compelling evidence in the record that the property suffered any significant external obsolescence, either from market conditions or from the Port of Indiana. Hall has presented a credible land analysis, which he supported with multiple sources of data. He supported his conclusion with both the cost and sales-comparison approaches, and we find it to be more persuasive and reasonable than Mitchell's appraisal. For these reasons, the 2012 assessment of the subject property is changed to reflect the conclusion of Hall's appraisal: $6,100,000.

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

____

Chairman, Indiana Board of Tax Review

____

Commissioner, Indiana Board of Tax Review

____

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

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

ATTACHMENT

Petitioner Name	State Parcel Number	Petition Number
Jeff Boat LLC	10-20-00-201-558.000-009	10-009-12-1-3-00014
Jeff Boat LLC	10-20-00-201-515.000-009	10-009-12-1-3-00012
Jeff Boat LLC	10-20-00-200-435.000-009	10-009-12-1-3-00013
Jeff Boat LLC	10-20-00-201-312.000-009	10-009-12-1-3-00011
Jeff Boat LLC	10-20-00-200-434.000-009	10-009-12-1-3-00015
Jeff Boat LLC	10-19-00-102-477.000-009	10-009-12-1-4-00063
John R. Fox Jr. Trust	10-19-00-102-467.000-009	10-009-12-1-4-00062