

REPRESENTATIVE FOR PETITIONER:

Attorney Paul M. Jones, Jr.

REPRESENTATIVES FOR RESPONDENT:

Attorney Marilyn S. Meighen

Attorney Brian A. Cusimano

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

MENARD, INC.,)	Petition Nos.: 53-015-15-1-4-00212-15
)	53-015-16-1-4-01810-16
Petitioner,)	53-015-16-1-5-01802-16
)	53-015-17-1-4-01438-17
v.)	
)	Parcel Nos.: 53-09-01-402-005.000-015
MONROE COUNTY ASSESSOR,)	53-09-01-402-007.000-015
)	
Respondent.)	County: Monroe
)	
)	Assessment Years: 2015, 2016, 2017

April 30, 2020

FINAL DETERMINATION

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

I. INTRODUCTION

1. The parties offered competing valuation opinions from their respective appraisers—Michael S. MaRous for Menard, Inc., and Wayne F. Johnson II for the Monroe County Assessor. Both appraisals have some probative value, but they also suffer from problems that detract from their overall reliability. After weighing the evidence, we find Johnson’s cost approach to be the most persuasive evidence presented to us and conclude it supports the current assessments. However, it is not a strong enough indicator of the property’s true tax value to increase the assessments.

II. PROCEDURAL HISTORY

2. Menard contested its 2015, 2016, and 2017 assessments. The Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) determined the following assessments:

Year	Land	Improvements	Total
2015	\$2,632,500	\$7,135,900	\$9,768,400
2016	\$3,006,000 ¹	\$6,559,400	\$9,565,400
2017	\$3,006,000	\$6,847,500	\$9,853,500

3. Beginning on May 1, 2019, our designated administrative law judge, Jacob Robinson (“ALJ”), held a two-day hearing on Menard’s petitions. Neither he nor the Board inspected the property.
4. Appraisers Michael S. MaRous, David Hall, and Wayne F. Johnson II testified under oath.
5. Menard submitted the following exhibits:

Exhibit A: Appraisal Report prepared by Michael MaRous
Exhibit B: Residual Depreciation Analysis prepared by Michael MaRous

¹ Represents the combined land assessment for Parcels 53-09-01-402-005.000-015 and 53-09-01-402-007.000-015.

6. The Assessor submitted the following exhibits:

- Exhibit A: Appraisal Report prepared by Wayne Johnson
- Exhibit B: Location Analysis Report prepared by David Hall
- Exhibit C: Addenda to Hall's Report
- Exhibit D: Deloitte's 2018 Back-to-College Survey
- Exhibit E: National Retail Federation article dated July 12, 2018
- Exhibit F: Entrepreneur.com article dated December 22, 2014
- Exhibit G: Market Analysis for Real Estate excerpts, Appraisal Institute
- Exhibit H: Google Maps of Subject Property and selection of MaRous's Sales and Rent Comparables
- Exhibit I: Transcript - *Menard, Inc. v. County of Anoka*
- Exhibit L²: U.S. Census Bureau article dated May 1, 2013

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

III. FINDINGS OF FACT

A. THE SUBJECT PROPERTY

8. The subject property is situated on 20.04 acres of land³ located at 1285 South Liberty Drive on the west side of Bloomington. The site has two curb cuts along the east side of Liberty Drive, and it sits adjacent to the west side of the I-69/SR 37 corridor. The subject is zoned PUD (Planned Unit Development) and is part of the Bloomington Technology Park PUD. The immediate vicinity is over 80% built up and has a mixture of retail, commercial, and industrial uses. *Pet'r Ex. A at 4, 15, 17; Resp't Ex. A at 8, 25, 27-28, 45, 91; Tr. Vol. I at 21, 34; Tr. Vol. II at 96, 110, 117.*

² The Assessor did not offer exhibits labeled J or K.

³ For the 2015 tax year, Menard is only challenging the valuation of Parcel 53-09-01-402-007.000-015, a 17.55-acre parcel containing the subject improvements. For 2016, Menard is challenging the valuations of both Parcel 53-09-01-402-007.000-015 and Parcel 53-09-01-402-005.000-015, a secondary, land-only parcel containing 2.49 acres. As of the 2017 assessment date, the Assessor had combined the two parcels under Parcel 53-09-01-402-007.000-015 for assessment purposes.

9. The construction of the primary improvements was completed in 2003. They include a 170,479-square foot commercial retail building with 22,333 square feet of mezzanine space, a partially enclosed 22,155-square foot garden center, and 30,742 square feet of warehouse area. Site improvements include approximately 840 paved asphalt parking spaces with landscaped islands, pole lighting, sidewalks, curbing, and a perimeter fence. *Pet'r Ex. A at 18, 23; Resp't Ex. A at 30-31, 91, 107, 110-112; Tr. Vol. II at 117-118.*

B. EXPERT OPINIONS

1. MaRous's Appraisal

10. Menard offered an appraisal report from Michael S. MaRous, MAI, CRE. After receiving a Bachelor of Science in urban land economics from the University of Illinois, MaRous went to work for an appraisal consulting firm in Chicago for about five years. He was awarded the SRA and MRI designations in 1979 and 1980, respectively. Since that time, he has appraised over 12,000 properties, predominantly in the Midwest. He has also appraised well over 1,000 retail commercial properties from small strip centers to regional malls, and over 100 large retail facilities in the last three years. *Pet'r Ex. A at Qualifications; Tr. Vol. I at 11-12.*
11. MaRous is a Certified General Appraiser in Indiana and has performed appraisal work in Indiana for over 30 years. He is the past president of the Chicago chapter of the Appraisal Institute where he has been involved in the last four editions of the *Appraisal of Real Estate*. He was also awarded membership in the Counselors of Real Estate in 1999, and he is chairman of the Midwest chapter. MaRous founded MaRous and Company, an appraisal and consulting firm in 1980. The firm has nine employees generally specializing in complex property types throughout the Midwest. A significant portion of his business involves consulting and valuation work for public bodies in the areas of land use, acquisitions, planning, and tax appeal cases. And over the last four or five years, he has done a considerable amount of work on big box retail properties for

both public bodies and several retailers, including Menard's, Lowe's, Best Buy, Kohl's, Macy's, and Walmart. *Pet'r Ex. A at Qualifications; Tr. Vol. I at 12-14.*

12. MaRous utilized all three approaches to value: the cost approach, the sales comparison approach, and the income capitalization approach. He valued the retrospective market value-in-use of the property's fee simple interest as of March 1, 2015, January 1, 2016, and January 1, 2017, and certified that his appraisal complies with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Pet'r Ex. A at 3, 26, 62-64, 68; Tr. Vol. I at 23-24.*

a. MaRous's Research and Market Overview

13. To develop his valuation opinions, MaRous performed an exterior and interior inspection of the property. He also researched physical and economic factors affecting the property and the surrounding neighborhood, and interviewed market participants. MaRous's market research involved looking at published data including zoning, comprehensive plans, traffic counts, floodplain information, and Bloomington's economic information. *Pet'r Ex. A at 2-3; Tr. Vol. I at 23-26, 40.*
14. The subject property is located just outside of the City of Bloomington in Monroe County, about 50 miles southwest of Indianapolis. It is in a secondary commercial location in a good area along Liberty Street, a modern artery built as a research park. There is some ancillary destination commercial nearby, including a Goodwill, but the major retail uses lie four or five blocks to the south (Walmart, Sam's Club) and in a commercial district to the north around a Lowe's, both of which are located right off I-69 interchanges. The property's market area is relatively small compared to the markets covered by the industry-standard national publications such as Indianapolis or Chicago. Monroe County is the 12th most populated county in Indiana, with a population of approximately 146,986 in 2017. Bloomington had an estimated population of 85,071 during that same year. Indiana University is a dominant force in Bloomington's economy

with enrollment of almost 50,000 in September 2016. Cook Industries and a few other major employers are also an important factor. *Pet'r Ex. A at 4-5; Tr. Vol. I at 24, 26, 40.*

15. Market trends for the Bloomington MSA show the market peaked in 2010 and settled back to 2007-levels by 2015. Bloomington's GDP output similarly peaked in 2008/2009 and suffered a downward spike before recovering in 2014/2015. The unemployment rate in Bloomington was 4.3% as of September 2016 and had remained under 6% for the previous two years, while personal income growth continued to accelerate. However, big box retail stores across the nation continue to be negatively impacted by the rise of e-commerce. Many big box retailers have gone out of business in the past several years, both adding to the inventory of big box stores on the market and reducing the potential demand for these properties. This imbalance of supply and demand is expected to continue. In Bloomington, the Sears at College Mall and the Kmart on East Third Street both closed in 2016, and Indianapolis retailer HH Gregg announced it may close all of their 220 locations. Another issue is that big box stores that are 250-350 feet deep are tough spaces to divide into smaller retail spaces due to the expense of adding walls and new washrooms, breaking up the HVAC, and changing the loading areas and façade. The subject is 330 feet deep while a typical retail store is only 60-100 feet deep. *Pet'r Ex. A at 4-14; Tr. Vol. I at 24, 26-32.*

16. According to MaRous, the subject site is legally and physically suitable for development with a large big box retail store. He concluded the highest and best use as though vacant is a planned industrial development or a secondary retail use, and its highest and best use as improved is its continued use as a big box retail building. However, he felt that the relatively low demand for big box retail stores might cause the market to attract either an alternate commercial retail user or an alternate noncommercial retail user. MaRous stressed that retail users still requiring big box stores almost always prefer to build their own store rather than occupy an existing building. *Pet'r Ex. A at 22-24; Tr. Vol. I at 40-41.*

b. MaRous's Cost Approach

17. MaRous started by estimating the value using the cost approach. He estimated the land value using comparable land sales. Due to the limited number of large comparable land sales in the subject area, MaRous relied on just two land sales from Bloomington to determine the market value of the land. The first is the sale of a 10.367-acre parcel located at 1531 South Curry Pike purchased for development of an office property. It sold in February 2017 for \$950,000, or approximately \$2.10/SF. The second sale is a 3.33-acre parcel located at 301 North Gates Drive purchased for the construction of a bank branch. It sold in May 2011 for \$625,000, or approximately \$4.31/SF. *Pet'r Ex. A at 27; Tr. Vol. I at 42-43.*

18. From these sales, MaRous estimated the market value of the land to be \$3.40/SF. Applying that value to the subject site's 878,503 square feet resulted in a reconciled land value of \$3,000,000 for the 2017 assessment year. MaRous identified no additional land sales to consider for either 2015 or 2016. And because he concluded that market trends for large commercial land parcels in the Bloomington area remained relatively stable between 2015 and 2017, MaRous estimated the market value of the land to be \$3.40/SF for 2015 and 2016 as well. His estimated land values were \$2,650,000 for 2015 and \$3,000,000 for 2016. *Pet'r Ex. A at 27, 31-33; Tr. Vol. I at 42-43.*

19. MaRous relied on Marshall & Swift and its online estimation tool called *SwiftEstimator* to estimate the replacement cost of the building. He classified it as a Class C Discount Warehouse Store and selected a building cost estimate of \$49.12/SF for 2017. However, he estimated that the cost to construct the building was 2% less in 2016 and an additional 1.5% less in 2015. This resulted in building cost estimates of \$48.14/SF for 2016 and \$47.42/SF for 2015. Applying each year's cost estimate to the 170,479 square feet produced replacement cost estimates of \$8,084,113 for 2015, \$8,206,859 for 2016, and \$8,373,928 for 2017. *Pet'r Ex. A at 27-28, 31-33; Tr. Vol. I at 43-44.*

20. MaRous described physical deterioration as the result of wear and tear. To estimate depreciation attributed to physical deterioration, MaRous divided the improvement's effective age in each year by an estimated economic life of 50 years. He determined the improvement's actual and effective age were the same (12, 13, and 14 years old during the years under appeal), resulting in physical deterioration estimates of 24%, 26%, and 28% for 2015, 2016, and 2017, respectively. According to MaRous, the subject also suffered from 40% functional obsolescence in all three years at issue. He primarily attributed this to a lack of demand for a 170,000-square foot store. He also thinks that the building's 330-foot depth limits the potential to divide the space into smaller storefronts. MaRous estimated that it costs \$30-\$60/SF to repurpose a large big box store for multitenant use. As for external obsolescence, while MaRous described the market in general as good, he thinks the market for a big box retail property in a secondary location like the subject "has been dramatically hurt by the oversupply and basically E-Commerce." Based on these negative influences, he applied external obsolescence of 10% to all three years at issue. *Pet'r Ex. A at 29-33; Tr. Vol. I at 44-45.*
21. The depreciation estimates from all three forms of depreciation resulted in total depreciation of 74% for 2015, 76% for 2016, and 78% for 2017. MaRous checked his depreciation estimates by preparing a residual depreciation analysis using the six comparable sales from his sales comparison approach. He deducted the total value of each comp's land and site improvements from its sales price to determine the depreciated value of the building improvements. He then divided that value by each comp's estimated reproduction cost to find their overall depreciation. His analysis showed depreciation percentages for the comps ranging from 71.3% to 99%, with average depreciation of 86.2%. After excluding the most highly depreciated comp (99%), the average is in the low 80% range, which is still higher than MaRous's overall depreciation conclusion for any of the years at issue. Applying MaRous's depreciation estimates to his replacement cost estimates produced depreciated replacement costs for the improvements of \$2,101,869 for 2015, \$1,969,646 for 2016, and \$1,842,264 for 2017. *Pet'r Ex. A at 29-33; Pet'r Ex. B; Tr. Vol. I at 45-49.*

22. For site improvements such as the paving, concrete walks and curbs, exterior lighting, and landscaping, MaRous included an estimated depreciated value of \$500,000 in each year, which equates to \$1,000 per parking space. While MaRous acknowledged that the property has a rear fenced area and an open shed area, he thinks they have limited value in the market. He emphasized that he is not measuring the cost, but what the market will pay. *Pet'r Ex. A at 30-33; Tr. Vol. I at 46.*
23. Adding MaRous's land value conclusions to the depreciated replacement costs of the building and site improvements produced the following value conclusions under the cost approach:

Assessment Date	Concluded Value (rounded)
March 1, 2015	\$5,250,000
January 1, 2016	\$5,470,000
January 1, 2017	\$5,350,000

Pet'r Ex. A at 30-33, 62; Tr. Vol. I at 46-47.

c. MaRous's Sales Comparison Approach

24. MaRous considers his sales comparison approach to be the key approach because it is how the market looks at these properties. He searched for fee simple sales of big box stores over 150,000 square feet within Indiana. Finding none, MaRous looked for fee simple sales of big box stores over 100,000 square feet and he identified five such sales in Indiana. He also included the sale of a 65,111-square foot former Kroger in Fort Wayne because the location is good and the buyer, Rural King is a market participant. Additionally, MaRous found more than 20 fee simple sales over 100,000 square feet with similar market conditions in Illinois, Wisconsin, and Minnesota. He did not use them as comps, but he did include 15 improved sales of big box retail stores from outside of Indiana in a secondary set of comparable sales as additional support. Their average size is in the 130,000-square foot range, and they generally indicated sales prices of between

\$20-\$40/SF, with an average sales price of \$25.42/SF. *Pet'r Ex. A at 51-53, 59-61; Tr. Vol. I at 55-58.*

25. The six primary comparable sales MaRous relied on are summarized as follows:

Sale No.	Address	Sale Date	Sale Price	Site Size (SF/Acres)	Average Daily Traffic Counts	Above-Grade Sq. Ft.	Year Built	Land to Building Ratio	Price Per SF Above Grade	Former User	New User/Comments
1	3201 W. State Hwy. 45 Bloomington, Ind.	11/12	\$2,350,000	676,922 / 15.54	23,560	126,004	1994	5.37:1.0	\$18.65	Walmart	Rural King
2	1000 US Rte. 41 Scherverville, Ind.	12/12	\$6,500,000	522,720 / 12.0	38,060	117,120	1996	4.46:1.0	\$55.50	Menards	Divided for multitenant use. Includes vacant outlot parcel
3	6050 US Hwy. 6 Portage, Ind.	12/11	\$7,825,000	724,838 / 16.64	30,935	192,814	1993	3.76:1.0	\$40.58	Kmart	Meijer / Included 5 acres of excess land
4	5501 S. Scatterfield Rd. Anderson, Ind.	6/16	\$2,750,100	411,642 / 9.45	22,566	103,096	1980	3.99:1.0	\$26.68	Target	Marketed to split up into smaller retail spaces
5	8801 US Hwy. 24 Fort Wayne, Ind.	1/14	\$2,300,000	354,143 / 8.13	35,614	65,111	1999	5.4:1.0	\$35.32	Kroger	Rural King
6	1929 N. Coliseum Blvd. Fort Wayne, Ind.	1/14	\$4,575,000	967,468 / 22.21	27,534	128,141	1996	7.55:1.0	\$35.70	Lowe's	Lowe's / Tenant purchase
Subj	1285 S. Liberty Drive Bloomington, Ind.			878,503 / 20.17*	11,808*	170,479	2003	5.15:1.0			

Pet'r Ex. A at 52.

26. MaRous considered adjustments to the comparable sales for excess land, date of sale, location, size, age, and use restrictions. He applied negative adjustments to Sales 2 and 3 because they included excess acreage capable of being sold as outlots (1.11 acres in Sale 2 and 5 acres in Sale 3). Sales 1, 2 and 3 received positive date of sale adjustments due to the age of the sales. Except for Sale 3, all the comps received negative adjustments to account for their smaller sizes. And Sale 5, built in 1999, was the only sale that did not have a positive adjustment applied for age. Additionally, just to be conservative, MaRous applied a small positive adjustment to all six comps to account for any use restrictions despite concluding that such restrictions are not supported by the market. *Pet'r Ex. A at 54-58; Tr. Vol. I at 58-67.*

27. For location, MaRous applied negative adjustments ranging from 7.5% to 25% to all six comps. He considered Sale 1 to have a superior location due to the higher traffic counts

along Bloomfield Road and its location right off an interchange for I-69. Sale 2 received an adjustment based on its location along a superior commercial arterial with traffic counts of 38,000 cars per day, good visibility, and a stronger retail area. Similarly, MaRous adjusted Sale 3 because its location along U.S. Highway 6 has superior exposure to traffic counts of almost 31,000 cars per day and better retail synergy, while Sale 4 received an adjustment because it is located on an arterial with traffic counts of around 22,500 cars per day. And like Sale 1, MaRous considered Sale 5 to have a superior location along an arterial road adjacent to an I-69 interchange, with traffic counts in excess of 35,000 cars per day. Finally, MaRous adjusted Sale 6 due to its superior traffic counts and exposure along a major arterial. *Pet'r Ex. A at 54-58; Tr. Vol. I at 58-62, 66-67.*

28. After adjustment, MaRous arrived at adjusted sales prices ranging from \$16.08/SF to \$38.16/SF, resulting in an average price of \$28.52/SF. Based on his analysis, he then concluded to a unit value range of \$30-\$34/SF, which he acknowledged was higher than the adjusted average of his six primary comps, higher than the average from his secondary set of comps, and higher than the price of his only comp from Bloomington. When applied to the subject's 170,479 square feet, his unit values produced value estimates ranging from \$5,114,370 to \$5,796,286, which he then reconciled to reach the followings value conclusions under the sales comparison approach:

Assessment Date	Concluded Value
March 1, 2015	\$4,850,000 ⁴
January 1, 2016	\$5,300,000
January 1, 2017	\$5,300,000

Pet'r Ex. A at 58, 61-62; Tr. Vol. I at 67-69.

⁴ For 2015, MaRous concluded to a value of \$4,850,000 after adjusting for the smaller land area at issue.

d. MaRous's Income Capitalization Approach

29. MaRous also prepared an income capitalization approach. He emphasized that there are a limited number of users for buildings in this size range because most big box retailers prefer to construct their own stores on a built-to-suit basis. The subject property would most likely be leased on a net basis, meaning the lessee is responsible for all operating expenses, common area maintenance, insurance, and real estate taxes. And large retail facilities like this one typically have 5-year and 10-year leases to limit the owner's future risk. *Pet'r Ex. A at 33-34; Tr. Vol. I at 50-51.*
30. With that in mind, MaRous searched for larger single-tenant retail facilities either leased or available for lease in Bloomington and the Chicago metropolitan area. His market investigation identified three comparable rental properties in Bloomington and five in the Chicago area. The comps include several grocery stores, a bowling alley, a furniture store, a Walmart Neighborhood Market, and a Lowe's. MaRous obtained the confidential lease data for Comps 1 and 2 from an appraisal report prepared by Johnson. Rent Comps 1-3 are actual lease rates for retail properties in the Bloomington area, but MaRous acknowledged that the lease for Comp 3 commenced after the relevant valuation dates in either 2017 or 2018. And although Comps 4-8 have signed leases in place, the contract lease rates were not available (except for Comp 5). He therefore used their asking rates, which he admitted are almost always higher than the actual contract rates. The stores range in size from 25,302 to 137,391 square feet, but only Comp 3 (the Bloomington Lowe's) is larger than 100,000 square feet. And apart from Comp 3, they all have net leases that commenced between July 2012 and December 2014. *Pet'r Ex. A at 34-36; Tr. Vol. I at 50-51.*
31. Before adjustment, the comps' rental rates ranged from \$4.57/SF to \$8.00/SF. MaRous then applied a range of quantitative adjustments for location and size. The adjusted rents ranged from \$2.97/SF to \$5.60/SF, with an average rental rate of \$4.37/SF. He gave consideration to all the comps, both the physical and locational attributes of the subject property, and to quoted contract and asking lease rates for (unidentified) competitive

properties. Based on that information, MaRous concluded to “a highly optimistic” estimate for the subject’s market lease rate of \$4.50/SF for 2017. Because rental rates for big box and junior big box retail spaces remained relatively stable and flat from 2015 to 2017, he concluded to the same market lease rate of \$4.50/SF for 2015 and 2016 as well. *Pet’r Ex. A at 34-37, 42-43, 47; Tr. Vol. I at 51.*

32. As of the second quarter of 2017, the *Q2 2017 Retail Report (Rcre.com)*, showed overall retail vacancy rates in Indianapolis of 5.90%, and vacancy rates for neighborhood centers of 10.79%. However, these vacancy figures reflect a broad range of retail properties. Because the subject is an owner-occupied big box retail store, it warrants a much higher stabilized vacancy rate from a market perspective. After considering all aspects of the subject property and the broader market conditions, MaRous estimated the subject’s vacancy rate to be 15% during 2015, 2016, and 2017. *Pet’r Ex. A at 37-39, 43-44, 47-48; Tr. Vol. I at 51-52.*

33. The next step was to estimate expenses. MaRous estimated tenant improvement expenses of \$0.75/SF to account for the significant amount of capital improvements necessary to attract a tenant to lease a vacant big box retail building. Additionally, MaRous included management expenses of 5% of effective gross income, a reserve and replacement expense of \$0.20/SF, and holding costs of \$2.75/SF for expenses borne by the lessor during periods of vacancy. These holding costs were applied to 25,572 square feet, or 15% of the subject’s total square footage. Because MaRous found no market evidence indicating that market-stabilized expenses for a big box net lease would have measurably changed from 2015 to 2017, he used the same expense estimates for all three years. After accounting for vacancy and deducting expenses from his rental income conclusions, MaRous concluded to an annual net operating income (“NOI”) of \$387,182 for 2015, 2016, and 2017. *Pet’r Ex. A at 37-39, 43-44, 47-48; Tr. Vol. I at 51-53.*

34. To develop a capitalization rate for 2017, MaRous considered the PwC Real Estate Investor Survey from the fourth quarter of 2016. It reported overall rate ranges for

national power centers as averaging around 7% and national strip centers having an average rate of 6.18%. While the property types covered by the PwC survey are similar to the subject, they do not accurately reflect the risks associated with a big box retail store with limited market appeal such as the subject. Thus, MaRous also considered the Situs Real Estate Research Corporation Real Estate Report from the fourth quarter of 2016. It reported average rates for the Midwest region from 8.0% to 8.2% and from 8.9% to 9.3% for second and third tier malls, power centers, and neighborhood/commercial properties, respectively. He also completed a Band of Investment analysis, which produced a rate range from 7.81% to 8.41%. Based on this data, MaRous selected a capitalization rate range of 8.0-8.25% for the subject property. He then used his vacancy rate estimate to load the rate with the landlord/property owner's share of real estate taxes when the property is vacant, producing an adjusted rate range of 8.22% to 8.47% (rounded). MaRous repeated the same process for the 2015 and 2016 years. Although some of the rates of return changed a little bit, he ultimately concluded to the same loaded rate range for those years as well. And even though the property had less land in 2015, MaRous decided to keep the cap rate the same "because the additional land really provided the benefit to Menards, not necessarily the income potential, the store." *Pet'r Ex. A at 39-42, 44-46, 49-51; Tr. Vol. I at 53-55.*

35. Applying the loaded rate range to his estimated NOI resulted in a value range of \$4,571,216 to \$4,710,243 for each year. MaRous reconciled these results near the midpoint of the range and arrived at the following value conclusions under the income approach:

Assessment Date	Concluded Value
March 1, 2015	\$4,600,000
January 1, 2016	\$4,600,000
January 1, 2017	\$4,650,000

Pet'r Ex. A at 42, 46, 51, 62; Tr. Vol. I at 54-55.

e. MaRous’s Reconciliation

36. In his reconciliation, MaRous again emphasized the weak demand for a property like the subject due to its gross building size and its specialized, “build-to-suit” architecture and construction. He considered the sales comparison approach to be the most reliable indicator of value. He therefore placed the most weight on his estimates under that approach, while relying on his cost and income approaches as checks. He also noted that the values from his cost and income approaches bracket the value produced by his sales comparison approach. MaRous’s final value conclusions are summarized as follows:

	March 1, 2015	January 1, 2016	January 1, 2017
Cost Approach	\$5,250,000	\$5,470,000	\$5,350,000
Sales Comparison Approach	\$4,850,000	\$5,300,000	\$5,300,000
Income Capitalization Approach	\$4,600,000	\$4,600,000	\$4,650,000
Reconciled Value	\$4,850,000	\$5,300,000	\$5,300,000

Pet’r Ex. A at 62-64; Tr. Vol. I at 69-70.

2. Hall’s Location Analysis

37. The Assessor offered a Location Analysis prepared by David Hall, MAI, AICP.⁵ He has a bachelor’s degree from the College of Architectural and Planning at Ball State University and a master’s degree in business administration from the Ohio State University. Hall has been a licensed Indiana Certified General Real Estate Appraiser since 2008, and he received his MAI designation in 2012. In the 1990s, Hall lived in Bloomington and was employed as a planner for the Monroe County Planning Department. During that time, he also received his AICP designation from American Institute of Certified Planners. *Tr. Vol. I at 191-193.*

38. Hall’s scope of work was limited to preparing an analysis of the location and market area of the subject property and offering comparative opinions about the locational and market

⁵ Although an additional appraiser, Michael C. Lady, also signed the location analysis offered by the Assessor, Hall was the only one who testified. For simplicity, we will refer to it as Hall’s.

area characteristics of nine other big box retail properties located in Illinois and Indiana.⁶ Hall did not read MaRous’s appraisal report nor did he receive a copy. Hall was not present during MaRous’s testimony, and he has no opinions about the quality of MaRous’s work. Hall’s analysis is not an appraisal, a review appraisal, or a review appraisal under Standard 3 of USPAP. However, because his analysis falls within the spectrum of appraisal practice, he did comply with USPAP’s scope of work and ethics rules. *Resp’t Ex. B at 4-6; Tr. Vol. I at 195-199.*

39. The factors Hall researched and analyzed in depth included traffic counts, population and household growth rates, county unemployment rates, projected retail demand growth rates, submarket vacancy rates, and submarket capitalization rates. These factors were in part drawn from an Appraisal Institute publication titled *Market Analysis for Real Estate*. According to that publication, a location analysis typically asks three questions: 1) What is the current and expected growth pattern in the area and how does the subject fit in relation to this growth pattern?; 2) What is the subject’s current and future competition?; and 3) How does the subject location compare to competitive areas? *Resp’t Ex. B at 1-2, 5, 13; Resp’t Ex. G; Tr. Vol. I at 194-195, 204-206.*
40. Hall thinks traffic counts serve as a good indicator of the relative strength of a retail location because retail stores rely on customer traffic and outside of dense urban areas the car is the primary mode of transport. All things being equal, a retail site served by streets

⁶ Hall’s comps correspond to MaRous’s comps as follows:

Property Address	Hall Comp. No.	MaRous Comp. No.
727 W. Golf Rd.	Comp. 1	Rent Comp. 4
1515 Aurora Ave.	Comp. 2	Rent Comp. 5
1103-1173 S. Main St.	Comp. 3	Rent Comp. 6
10205 Grand Ave.	Comp. 4	Rent Comps. 7 & 8
1000 US Rte. 41	Comp. 5	Sales Comp. 2
6050 US Hwy. 6	Comp. 6	Sales Comp. 3
5501 S. Scatterfield Rd.	Comp. 7	Sales Comp. 4
8801 US Hwy. 24	Comp. 8	Sales Comp. 5
1929 N. Coliseum Blvd.	Comp. 9	Sales Comp. 6

Resp’t Ex. B at 91; Pet’r Ex. A at 34, 52.

with higher traffic counts tend to be more appealing to retailers, investors, or retail property owners because it indicates a higher level of potential retail demand. His analysis identified the traffic counts for the subject and each of the nine comps during 2014, 2015, 2016, and 2017 and assigned them a qualitative rating of superior, similar, or inferior. If the differences in traffic counts was within 5,000 cars per day, Hall considered the counts to be similar. His results showed Comps 1 and 3 had superior counts, Comps 2 and 4 had inferior counts, while the remaining comps, Comps 5-9, had similar counts. *Resp't Ex. B at 14-31; Tr. Vol. I at 206-218.*

41. In discussing accessibility and road frontage, Hall explained that he looked at the characteristics of each property's site in terms of how many curb cuts there are, where those curb cuts are located, and the orientation of the property. All things being equal, properties with more access points, easier access, and better visibility tend to have more value and higher demand. Hall rated the subject and Comps 2 and 4 as having fair accessibility overall, and he concluded that Comps 1, 3, and 5-9 all had superior access due to their locations along multilane thoroughfares with good visibility and access. *Resp't Ex. B at 32; Tr. Vol. I at 212-222.*

42. The next factor Hall addressed was population and household growth rates within a five-mile radius of each property. The *Market Analysis for Real Estate* says “[t]he rate of growth in the economic base determines the demand for real estate and the rate at which land is absorbed for use...This growing population creates greater demand for real estate because more people need places to live, work, and play.” And in Hall's opinion, it also creates greater demand for retail properties specifically because all things being equal, areas that have higher population growth rates have greater potential retail demand. Apart from Comp 8, which he found to have similar growth rates, Hall concluded that the comps all had inferior growth rates. *Resp't Ex. B at 33-44; Resp't Ex. G; Tr. Vol. I at 222-227.*

43. Turning to county unemployment rates, Hall explained that employment is the primary predictor of real estate demand for all property types because changes in employment start a chain reaction. Unemployment rates are also a leading indicator of retail demand because the more people that are earning regular income in an area, the more people there are to make discretionary spending purchases. Thus, a retail location in an area with high employment rates is usually more desirable and valuable than a location impacted by low employment or negative employment trends. Based on his review of unemployment rates in each comps' county during 2014, 2015, 2016, and 2017, Hall determined that Comps 2 and 3 had similar unemployment rates, Comps 8 and 9 had superior rates, and Comps 1, 4, 5, 6, and 7 had inferior rates. *Resp't Ex. B at 45-51; Tr. Vol. I at 227-230.*
44. The anticipated demand for retail goods and services is a demand driver for retail real estate. Thus, a well-informed buyer or user of a retail property would likely consider the local trade area's potential for growth before making a purchase or leasing decision. Hall analyzed the forecasted retail demand growth rates within a five-mile radius of each property for a five-year period spanning from 2019 to 2024 using data from Environics Analytics, a company that pulls population data, income data and other demographic factors to help determine total retail demand. He considered the data reported for six retail categories and store types: total retail trade including food and drink; total retail trade excluding food and drink; furniture and home furnishings; building materials and home equipment; general merchandise stores; and warehouse clubs/supercenters. Hall's analysis led him to conclude that all the comps had inferior forecasted growth rates except for Comp 8, which is expected to have a similar growth rate to the subject. *Resp't Ex. B at 52-53; Resp't Ex. C at 23-62; Tr. Vol. I at 230-236.*
45. Vacancy is a leading indicator of a market area's location appeal because supply, demand, rental rates, and capitalization rates tend to change in response to changes in vacancy rates. Hall's review of submarket vacancy rates relied on survey data from CoStar.com for 2014, 2015, 2016, and 2017. He used it to analyze vacancy trends in the general retail segment for each property's submarket, and concluded that all the comps

had inferior vacancy rates with the exception of Comp 8, which had superior vacancy rates when compared to the subject. *Resp't Ex. B at 54-75; Tr. Vol. I at 236-239.*

46. Hall also compared capitalization rate trends within the properties' respective submarkets. Although cap rates are not a direct measure of location appeal or market strength, they are a measure of investment risk. Properties perceived as having a high degree of risk tend to sell at high cap rates, while properties considered safe investments usually sell at low cap rates. The perceptions of risk for big box properties tend to be impacted by factors such as tenancy characteristics, rental rates and terms, rates of return for alternative investments, inflation, availability of financing, market conditions, and market-area characteristics. Generally speaking, a property in a better location will trade at a lower cap rate, while a property in a less desirable location will trade at a higher cap rate. Hall attempted to isolate for location (market area) by looking at CoStar.com data for general retail from 2014 to 2017. Some of the differences in cap rates could be attributable to factors other than location, but he felt those differences were relatively minor. His analysis showed that all the comps had inferior submarket cap rates compared to the subject. *Resp't Ex. B at 76-77; Tr. Vol. I at 239-241.*

47. Additionally, Hall reviewed household income and the impact Indiana University's student population had on income levels in Bloomington and Monroe County. As of 2017, the university had a total student enrollment of more than 43,000. The size and relative percentage of this student population tends to skew the city and county's household income numbers. Students typically report lower household income levels than other demographic segments because they are unemployed, employed part-time, or are employed in entry-level jobs with lower wages. However, students actually have average or above average spending power because of student loans and financial support from their parents. So just looking at the census data and the bottom-line median household income number without accounting for the purchasing power of students, you could end up with unreliable or inaccurate data. Because of these complications, Hall ultimately excluded household income levels as a means of analyzing the subject's

location and market characteristics. *Resp't Ex. B at 78-82; Resp't Ex. D; Resp't Ex. E; Resp't Ex. F; Resp't Ex. L; Tr. Vol. I at 241-255; Tr. Vol. II at 61-62.*

48. Finally, Hall looked at the total population within a five-mile radius of each property and the amount of freestanding big box retail per person within that radius as measures of potential retail demand. He concluded that the subject's trade area is characterized by a higher level of potential retail demand relative to supply than any of the comps except for Comp 1. He also determined that all the comps had more existing retail space per person in their trade areas, indicating that the comps are located in areas with higher levels of competition. Nevertheless, because the datasets were small, Hall did not give these metrics much weight. *Resp't Ex. B at 83-89; Resp't Ex. G; Tr. Vol. I at 255-264.*
49. Based on all the location characteristics he reviewed in his comparative analysis, Hall's overall conclusion was that when compared to the subject, every property except Comp 8 is inferior in terms of location. And he noted that is true with respect to almost every one of the individual factors as well. *Resp't Ex. B at 90-91; Tr. Vol. I at 263-264.*

3. Johnson's Appraisal

50. The Assessor offered an appraisal report prepared by Wayne F. Johnson II, MAI, RM, MRICS, founder of First Appraisal Group, Inc. Johnson has been an Indiana Certified General Appraiser since 1992. He received a RM designation from the Appraisal Institute in 1987 and he has been appraising property as an MAI for over 20 years. Johnson also has a current real estate broker's license first issued in 1984 and a membership in the Royal Institution of Chartered Surveyors since 2013. *Resp't Ex. A at 180; Tr. Vol. II at 91-92.*
51. In the last ten years most of Johnson's appraisal work has involved residential properties, industrial properties, commercial properties such as retail and office properties, and multifamily properties in southern Indiana. He has, however, completed appraisal work as far north as Fort Wayne, and he has worked on right-of-way projects in Lafayette.

Johnson has also appraised some properties around Indianapolis. Ten percent or less of his work has involved providing appraisals for the Monroe County Assessor and Board of Commissioners in property tax cases. His other clients include financial institutions, insurance companies, attorneys (divorce and estate cases), private individuals (estate and business planning), and several consulting firms who hire him as a subcontractor for Indiana Department of Transportation right-of-way projects. He has also served as a court-appointed appraiser in Monroe County, and has been hired directly by various counties, cities, and towns in Indiana to provide appraisal services. *Tr. Vol. II at 92-94.*

52. Johnson appraised the subject's true tax value as of March 1, 2015, January 1, 2016, and January 1, 2017 assessment dates. His report relied on all three traditional appraisal methods: the cost approach, sales comparison approach, and the income approach. Johnson valued the fee simple interest and certified that his appraisal complies with USPAP. *Resp't Ex. A at Transmittal Letter, 8-11, 175; Tr. Vol. II at 95-98.*

a. Johnson's Research and Market Overview

53. In 2014, the U.S. economy bounced back after a slow start. Wage gains suggested a more sustainable economic recovery for 2015, and by 2016, the economy saw a moderate level of stable growth. It continued to maintain growth in 2017. Indiana's growth has followed the national trends, but at a lower rate. During this time, the national retail market for net-leased properties was active and they were in high demand, while vacancies trended downward from 2015 to 2017. Big box retail was one of the more at-risk sectors during the last economic cycle. The economic cycle for big box retail peaked in 2006 as the national retailers reached saturation, with the addition of nearly 170 million square feet of space that year. In contrast, only 60 million square feet of big box space was under construction as of July 2017, most of which is concentrated in urban areas. The national retail market is also in a state of change with store spaces being modified to adapt to consumer preferences for online shopping. That means more backroom space and smaller display areas and gearing for online purchases with customer pickup at the store. *Resp't Ex. A at 51-59; Tr. Vol. II at 122-124.*

54. Johnson divided the submarket into two areas: Economic Growth Region 8, which includes the counties of Brown, Daviess, Greene, Lawrence, Martin, Monroe, Orange, and Owen; and Monroe County, inclusive of Bloomington. Region 8 saw increasing population and decreasing unemployment from 2014 to 2017. Bloomington and Monroe County have seen slow, steady growth since 2012 with an average of 2% to 3% appreciation. Johnson considers the subject's district or neighborhood market to be the west I-69 corridor, including the Liberty Drive area and the Whitehall Shopping area. Although he acknowledged that traffic counts affect retail and he included counts for the district in his report, Johnson noted that the counts are about ten years old. He also noted that the counts may be skewed due to roadwork on I-69. *Resp't Ex. A at 13, 59-86; Tr. Vol. II at 124-131.*
55. Johnson determined that the subject's highest and best use as vacant is as a commercial retail site. And as improved, the subject's highest and best use is the same as its current use—commercial retail. *Resp't Ex. A at 87-89; Tr. Vol. II at 115-116, 131.*

b. Johnson's Cost Approach

56. Johnson relied on the sales comparison approach to develop a land valuation for use in his cost approach. He selected four land sales near the subject site. Sale 1 is a 26.264-acre parcel located at Leonard Spring Road/Curry Pike and State Road 45 that sold in September 2004. The site was developed with a Walmart Supercenter in 2007. Although it is a dated sale, Johnson felt it had relevance because it was one of the only sales of big sites sold for retail use. After a market conditions adjustment of 2% per year, it had an adjusted sales price of \$243,267/acre for 2017. Sale 2 is a 10.367-acre parcel located close to the subject at 1531 S. Curry Pike. It sold in February 2017 and was then developed into a large office building for government offices. After a small market conditions adjustment and a -10% site area adjustment, it had an adjusted sales price of \$82,198/acre for 2017. *Resp't Ex. A at 90-95, 101-103; Tr. Vol. II at 132-137.*

57. Like the subject, Sale 3 has a South Liberty Drive address, but its small size of 1.92 acres means the site's relevance is mainly for its location. It sits adjacent to the subject just to the north of the railroad tracks. The parcel sold in April 2014, and it was later assembled with more land to make a 5.5-acre site for a car dealership. Johnson applied his 2% per year market conditions adjustment and a -30% site area adjustment, resulting in an adjusted sales price of \$144,760/acre for 2017. Sale 4 is also smaller at 3.3 acres, but appraisers have to use the sites that are available that have sold. The parcel has an address of 301 N. Gates Drive. After purchasing the parcel in May 2011, the buyer improved the site with a 3,626 square foot bank building that is currently occupied by IU Credit Union. After adjusting for market conditions, site size and topography/shape, it had an adjusted sales price of \$177,615/acre for 2017. Johnson correlated the adjusted prices of his four land comps to a value of \$160,000/acre, producing an indicated land value of \$3,200,000 as of January 1, 2017 for the subject's 20.04 acres. *Resp't Ex. A at 96-103; Tr. Vol. II at 132-137.*
58. Johnson used the same comps and made the same adjustments for 2015 and 2016, although the market conditions adjustments are different to reflect the different valuation dates. After applying his adjustments, Johnson selected correlated values of \$150,000/acre and \$155,000/acre for 2015 and 2016, respectively. Multiplying those correlated values by the subject's 17.55 acres produced rounded land value conclusions of \$2,635,000 as of March 1, 2015 and \$2,720,000 (with \$385,000 allocated to the secondary parcel's 2.49 acres) as of January 1, 2016. *Resp't Ex. A at 104-105; Tr. Vol. II at 137-139.*
59. As further support, Johnson reviewed nine larger land sales from central Indiana that were subsequently used for retail, but they were not primary indicators of value. The sales occurred between June 2013 and November 2017, selling for an average unadjusted price of \$253,316/acre. Johnson also identified several less recent sales from the subject's area including a Kohl's site that sold for \$183,350/acre in 2001, a 12.81-acre Lowe's tract that sold for \$288,837/acre, a 6.4784-acre Honda site on Liberty Drive that

sold for \$270,128/acre in March 2003, and a 4.45-acre Goodwill site across the street from the subject that sold for \$133,707/acre in January 2003. *Resp't Ex. A at 106; Tr. Vol. II at 139-140.*

60. Johnson developed an estimate of the depreciated cost of the improvements using Marshall Valuation Service. He selected the Class C Low Cost Warehouse Discount Store classification for the main building. He refined the base cost by adding in the costs for sprinklers, a canopy section, and central air conditioning. He applied multipliers for story height, height per story, perimeter, and local and current costs. Additionally, Johnson added 5% for soft costs and 10% for entrepreneurial incentive. Johnson's calculations produced replacement cost estimates for the main building of \$8,585,493 for 2015; \$8,586,352 for 2016; and \$8,601,079 for 2017. He then calculated separate replacement cost estimates for the mezzanine space, garden center, and warehouse area. Their base costs were not refined for items such as sprinklers, but Johnson did apply multipliers for local and current costs. Adding together the estimates for the main building and three additional sections produced total cost new estimates of \$10,915,797 for 2015; \$10,923,297 for 2016; and \$11,037,820 for 2017. *Resp't Ex. A at 107-112; Tr. Vol. II at 141-148.*
61. Johnson calculated physical depreciation using the age/life method. He determined the building's actual and effective ages were about the same. He also noted that the 40-year economic life he employed equates to 2.5% depreciation per year, which is similar to the 2.36% depreciation average produced by a market abstraction analysis of the comps from his sales comparison approach. Using ages of 12, 13, 14 years old and a 40-year economic life produced accrued depreciation percentages of 30% for 2015; 32.50% for 2016; and 35% for 2017. Applying Johnson's accrued depreciation percentages to his total cost new estimates produced total depreciated replacement cost estimates for the improvements of \$7,641,058 for 2015; \$7,373,225 for 2016; and \$7,174,583 for 2017. Johnson noted no unusual depreciation or obsolescence for the subject. He felt the buildings could be adapted to alternative uses with cost expenditures typical of other sold

properties. And he saw no basis for external obsolescence. *Resp't Ex. A at 113-116; Tr. Vol. II at 148-152.*

62. Johnson estimated the site improvements costs for curbing and gutters, fencing, landscaping, parking, roads and entry, retaining walls, site work, lighting, and signage. He concluded to total costs new of \$1,500,000, \$1,525,000, and \$1,575,000 for 2015, 2016, and 2017, respectively, before depreciation. Johnson applied straight-line depreciation based on the improvements actual ages and an expected life of 20 years, resulting accrued depreciation percentages of 60%, 65%, and 70%. When applied to the costs new, Johnson calculated depreciated replacement cost estimates of \$600,000 for 2015; \$533,750 for 2016; and \$472,500 for 2017. *Resp't Ex. A at 109, 115-116; Tr. Vol. II at 149-151.*

63. Adding Johnson's land value conclusions to the depreciated replacement costs of the building and site improvements produced the following value conclusions under the cost approach:

Assessment Date	Concluded Value (rounded)
March 1, 2015	\$10,875,000
January 1, 2016	\$10,625,000
January 1, 2017	\$10,850,000

Resp't Ex. A at 116; Tr. Vol. II at 151-152.

c. Johnson's Sales Comparison Approach

64. The sales comparison approach is a method of estimating value by comparing the subject property with recent sales of similar properties. The best comparable properties would be in the same district, would be similar in size and construction, and would have sold recently for continuation of the same use. Because the subject's district market is small, few similar properties have sold, making for a limited selection of comparable properties. Johnson therefore expanded his search area and date range for sales within the local

market, emphasizing that it is best to use local sales because location is a primary consideration when comparing sales. *Resp't Ex. A at 117; Tr. Vol. II at 152-156.*

65. The six comparable sales Johnson selected are summarized as follows:

Sale No.	Address	Sale Date	Sale Price	Site Size (SF/Acres)	Above-Grade Sq. Ft.	Year Built	Land to Building Ratio	Price Per SF Above Grade	Former Use	Current Use
Subject	1285 S. Liberty Dr. Bloomington, IN			872,942 / 20.04	170,479	2003	5.12			Home store
1	606 W. Gourley Pk. Bloomington, IN	01/15	\$1,200,000	118,048 / 2.71	30,102	1998	3.92	\$39.86	Appliance store	Vacant retail
2	4610 W. SR 46 Bloomington, IN	08/15	\$778,000	45,259 / 1.04	14,570	1995	3.11	\$53.40	Home center and hardware	Home and garden store
3	2424 S. Walnut St. Bloomington, IN	12/07	\$2,420,000	201,247 / 4.62	43,446	1987	4.63	\$55.70	Grocery	Vacant retail
4	1100-1320 James Ave. Bedford, IN	01/16	\$6,300,000	896,029 / 20.57	132,165	1993	6.78	\$47.67	Retail Center	Vacant retail
5	1456 Liberty Dr. Bloomington, IN	12/17	\$2,175,000	211,440 / 4.85	32,000	2000	6.61	\$67.97	Flex	Vacant retail

Resp't Ex. A at 118-130, 132-134; Tr. Vol. II at 152-156.

66. Johnson considered adjustments to each of his comparable sales for property rights, financing terms, condition of sale, market conditions, location, size, and condition/age. He adjusted all five comparable sales for market conditions according to their dates of sale and the applicable effective date. They all received negative size adjustments to account for their smaller sizes as well. Sale 1, a former HH Gregg store, also received a positive location adjustment due to its inferior location. Additionally, Sales 2 and 4 received positive location and condition adjustments, while Sale 3 received a positive condition adjustment. *Resp't Ex. A at 131-134; Tr. Vol. II at 152-157.*

67. After adjusting his sales, Johnson selected correlated values near the average value of the sales for each year. He concluded to correlated values of \$47.75/SF for 2015, \$48.50 for 2016, and \$49.50 for 2017, placing the most weight on Sale 3 because of the large differences in Sales 1, 2, and 4's locations. Johnson performed a check to see if his correlated values were within a certain range of regional retail sales using CoStar data on nine retail and shopping center sales. The properties had sizes ranging 125,000 to

175,000 square feet, and they sold between October 2012 and October 2017 for an average price of \$66.30/SF. While Johnson felt the sales were supportive of his correlated values, he acknowledged that the dataset likely included leased fee sales. Johnson also considered a group of seven other Bloomington sales. They included sales of shopping centers, small buildings, and a vacant building. The sizes ranged from 13,616 to 125,867 square feet. But he did not include them in his grid because they are dated leased fee sales. *Resp't Ex. A at 132-136; Tr. Vol. II at 156-158.*

68. Applying Johnson's correlated values to the total square footage of the subject property resulted in indicated values of \$8,140,372 for 2015, \$8,268,232 for 2016, and \$8,438,711 for 2017. In order to account for the mezzanine, garden center, and warehouse area, Johnson then added the depreciated costs he developed for each area in his cost approach to the indicated value of the main building for each year. He reached the following final value conclusions under the sales comparison approach:

Assessment Date	Concluded Value (rounded)
March 1, 2015	\$9,770,000
January 1, 2016	\$9,845,000
January 1, 2017	\$10,000,000

Resp't Ex. A at 132-134, 136; Tr. Vol. II at 156-157.

d. Johnson's Income Capitalization Approach

69. Johnson also developed an income capitalization approach using ten leases for properties located in the Whitehall shopping center. They include a kitchen/bath/home goods store, a dollar merchandise store, a religious store, an appliance store, a card shop, an art supply store, a pet store, a shoe store, a home and dry goods store, and an office supply store ranging in size from 4,495 square feet to 30,546 square feet. The rental rates ranged from \$7.00/SF to \$14.00/SF, with average rates of \$10.80/SF in 2015 and \$10.85 in 2016. Recognizing that their leased areas are smaller, Johnson made a qualitative adjustment by looking at the correlation between the lease rates and the size of the stores to find a trend.

His graphs depict how as buildings get larger; the rents go down. *Resp't Ex. A at 137-150, 159; Tr. Vol. II at 161-163.*

70. Because the ten leases from Whitehall were “real small,” Johnson added a second set of eight larger comps to get a better range for what the appropriate rent for the subject should be. He either had the leases or had appraised each of the eight comps. They include three grocery stores, two furniture stores, a pet store, a deli, a farm and home store, and a fitness club. Their sizes range from 7,500 square feet to 62,000 square feet, but only one of them is larger than 50,000 square feet (#17—a built-to-suit Kroger store). Many of them are not freestanding stores, the farm and home store is located in Ellettsville (#15), and the rate for #18 was an asking rate. Their rental rates ranged from \$4.57/SF to \$14.00/SF. *Resp't Ex. A at 151-155, 159; Tr. Vol. II at 163-164.*
71. Additionally, Johnson included a survey of Bloomington leases over 2,000 square feet compiled by CoStar Analytics, but he did not put a lot of weight on it because their data gives all kinds of high to low ranges. He also reviewed the asking rates for five regional comparable leases for properties in Fishers, Martinsville, Seymour, Indianapolis, and Bloomington. They ranged in size from 2,200 square feet to 120,000 square feet, and had an average asking rate of \$9.20/SF. *Resp't Ex. A at 156-159; Tr. Vol. II at 164-166.*
72. Johnson primarily relied on larger comparable leases, selecting seven of his rent comps from the Whitehall shopping center area and four from his set of larger leases in the Bloomington area. His “correlated rent is based on the largest areas and at the lowest end of the range of all comparable indications.” Johnson concluded to market rental rates of \$6.00/SF for 2015; \$6.25/SF for 2016; and \$6.50/SF for 2017. *Resp't Ex. A at 159, 169-171; Tr. Vol. II at 167, 172-173.*
73. To develop an estimate for vacancy and collection loss, Johnson reviewed actual vacancy rates for retail properties in Bloomington. The average vacancy rates were 11% in 2012 and 9.3% in 2015. He also consulted CoStar reports tracking national vacancy rates and

comparing average rental rates and vacancy rates for retail. The national report showed vacancy rates for general retail properties of less than 5% from 2006 to 2017, while the vacancy comparison showed vacancy rates going down during the 2014 to 2017 timeframe. Johnson also noted that the highest vacancy rate, which was for shopping centers, was under 10% during the relevant years. CoStar had no market reports for Economic Growth Region 8 or the Bloomington market. According to Johnson, the closest and best available data was for the Evansville and Indianapolis markets. They had vacancy rates of 4.4% and 5.4% (Q2) in 2017, respectively. Johnson ultimately estimated vacancy and collection loss to be 10% for each year, which he admitted was more than the national average and the rates of the local retail properties he surveyed. *Resp't Ex. A at 160-162; Tr. Vol. II at 166-167.*

74. Johnson assumed the tenant would pay the fixed expenses such as taxes and insurance based on the typical triple-net lease arrangement. Nevertheless, he loaded his capitalization rate with the portion the landlord would cover due to vacancy. He also included a fixed expense allowance of 0.25% for insurance because he assumed the owner would want some general liability insurance during periods of vacancy. A landlord would also be responsible for operating expenses related to management, general and administrative expenses, other miscellaneous/unexpected expenses, and reserves, which Johnson estimated to be 3%, 2%, 2%, and 2% of effective gross income, respectively. Johnson's data ultimately produced NOI estimates of \$835,234 for 2015; \$870,139 for 2016; and \$905,045 for 2017. *Resp't Ex. A at 162-163, 169-171; Tr. Vol. II at 167-169.*
75. In developing his cap rate, Johnson used the band-of-investment method, multiple market surveys, and local retail market abstractions. The band-of-investment method produced a blended rate of 8.662%. He also reviewed several market surveys created by RealtyRates.com, PwC, CoStar, and the Boulder Group, but he noted that one has to be careful because those rates typically include leased fee properties, prime investment properties, and properties from all over the country. He therefore put more faith in his

band-of-investment calculation. His first local market extraction used an eight-unit retail center that sold in August 2014 and produced an overall rate of 7.8% based on its 2015 operating expenses. He developed his second market extraction from a retail strip center with seven units, including an oil change facility. Based on the actual expenses from 2010, it had an overall rate of 7.5%. His analysis of the two local properties led him to believe that they have a lower rate than what he should apply to the subject because they are smaller, leased fee properties. Johnson ultimately selected a base capitalization rate of 9.0% for all the assessment dates. He then loaded his rate with an additional 0.15% to account for the owner's share of property taxes during periods of vacancy, making his overall rate 9.15%. Applying his cap rate to his NOI estimates for each year produced the following value conclusions under the income approach:

Assessment Date	Concluded Value (rounded)
March 1, 2015	\$9,130,000
January 1, 2016	\$9,500,000
January 1, 2017	\$9,900,000

Resp't Ex. A at 163-171; Tr. Vol. II at 169-173.

e. Johnson's Reconciliation

76. Johnson placed the most weight on his sales comparison and income approaches. He felt the cost approach supported both values. After reconciling the three approaches, Johnson reached the following final value conclusions:

	March 1, 2015	January 1, 2016	January 1, 2017
Cost Approach	\$10,875,000	\$10,625,000	\$10,850,000
Sales Comparison Approach	\$9,770,000	\$9,845,000	\$10,000,000
Income Capitalization Approach	\$9,130,000	\$9,500,000	\$9,900,000
Reconciled Value	\$9,500,000	\$9,700,000	\$9,950,000

Resp't Ex. A at 172-173; Tr. Vol. II at 173.

IV. ANALYSIS AND CONCLUSIONS OF LAW

A. OBJECTIONS

77. During the course of the hearing, our ALJ ruled on multiple objections to questions posed to witnesses. We need not revisit those objections, and we adopt our ALJ's rulings. However, Menard objected to several of the Assessor's exhibits and all of the testimony provided by one of her witnesses. We now turn to those objections.
78. Menard objected to the admission of Assessor's Exhibits B and C, Hall's Location Analysis Report and accompanying Addenda and moved to strike all of Hall's testimony related thereto. According to Menard, Hall's report and addenda are in fact a review appraisal that the Assessor was required to exchange by March 1, 2019 under the Case Management Plan approved by the Board.
79. The Assessor acknowledged that she did not exchange the exhibits by the March 1st exchange deadline but argued that she did not need to because Hall's report is not a review appraisal. In support, the Assessor emphasized that Hall repeatedly testified his report is not a review appraisal under USPAP Standard 3, he did not read MaRous's appraisal or listen to his testimony, and he did not express any opinions about the quality of MaRous's appraisal in his report. The Assessor also argued that the Board should treat Menard's objections as waived because Menard failed to raise its objections at the time the exhibits and testimony were offered. Instead, Menard stipulated to the exhibits' admission and then belatedly raised its objections after it had concluded its cross examination of Hall. Finally, the Assessor pointed out that Menard received Hall's report and addenda on March 28, 2019, more than a month prior to the scheduled hearing in this matter and took no steps to depose Hall or seek a continuance of the hearing date. Our ALJ took the objections and motion to strike under advisement.
80. The Case Management Plan we approved on October 9, 2018 did require that "[a]ny and all review appraisals...shall be exchanged on or before March 1, 2019." And whether it

technically qualifies as a review appraisal under USPAP Standard 3 or not, we agree that the Assessor used Hall's report, addenda and testimony to criticize aspects of MaRous's appraisal in much the same way that parties before us typically use review appraisals. However, Menard failed to seek any relief prior to the scheduled hearing date despite having more than a month to do so. It also failed to raise an objection at the time the Assessor sought to have the exhibits admitted at the hearing. In fact, our ALJ gave Menard opportunities to ask preliminary questions regarding the admissibility of both exhibits before admitting them. In each instance, Menard asked Hall multiple questions concerning the nature of the exhibits before expressly stating that it had *no objection* to their admission, *at which point our ALJ admitted them into the record*. And Menard failed to object to Hall's testimony until *after* it had finished cross-examining him. Thus, we find no merit to Menard's claim that it raised the objections and motion to strike at its first opportunity to do so. Finally, we note that Menard requested and was granted an opportunity to recall MaRous to rebut Hall's report and testimony. We therefore overrule Menard's objections and its motion to strike, noting, however, that this ruling ultimately has no affect on our final determination.

81. Menard also objected to the admission of Assessor's Exhibit I, an unsigned transcript from a tax court hearing out of Minnesota captioned *Menard, Inc. v. County of Anoka*, dated May 22, 2018, for lack of foundation because the Assessor failed to demonstrate that it is an official, certified transcript. The Assessor argued the transcript contains MaRous's testimony and that MaRous could therefore certify whether the testimony depicted therein is accurate. The Assessor further argued that she should at least be able to use the transcript to refresh MaRous's memory, and our ALJ admitted the transcript for that limited purpose.
82. Although we view the Assessor's use of the transcript as an attempt to impeach MaRous using a prior inconsistent statement instead of an attempt to refresh his memory, we take no issue with the Assessor referring to it during questioning. But we do conclude that the

Assessor failed to lay a proper foundation for admitting the transcript into the record. We therefore exclude Assessor's Exhibit I.

B. BURDEN OF PROOF

83. 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 a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b), (d).
84. Menard stipulated that it has the burden of proof in this case. However, in a case like this, where both parties offered USPAP-compliant appraisals prepared by qualified experts, the question of who has the burden is largely theoretical. We must weigh the evidence to determine which party presented the most credible and reliable opinion of the subject property's true tax value for each year.

C. TRUE TAX VALUE

85. Indiana assesses property based on its "true tax value," which is determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c) and (e). The DLGF defines "true tax value" as "market value-in-use," which it in turn defines as "[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL 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).

86. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property's value as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2015, 2016 and 2017, the valuation dates were March 1, 2015, January 1, 2016 and January 1, 2017, respectively. Ind. Code § 6-1.1-2-1.5(a).

87. In Indiana “each assessment and each tax year stands alone” and the Board “evaluates each property's value based on its specific facts and circumstances.” *CVS Corp. v. Monroe Cty. Assessor*, 83 N.E.3d 1286, 1292 (Ind. Tax Ct. 2017). The Board is “not bound to reach the same conclusions regarding the persuasive value of an appraiser's reports and valuation methods for different tax years or different properties.” *Id.* The Tax Court has held that the “valuation of property is an opinion and not an exact science.” *Monroe Cty. Assessor v. SCP 2007-C-26-002, LLC*, 62 N.E.3d 478, 482 (Ind. Tax Ct. 2016). Therefore, “it is up to each party to convince the Indiana Board why its opinion . . . is more probative.” *Id.* Furthermore, the Board must determine what portions of an appraisal are supported by the evidence:

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

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

D. VALUATION EVIDENCE

1. MaRous's Appraisal

88. MaRous analyzed the subject's value under all three generally accepted appraisal approaches, but we conclude that each of his valuation approaches suffers from flaws that significantly detract from their persuasiveness.

a. MaRous's Cost Approach

89. The Assessor criticized MaRous for relying on just two comparable sales to support his land value conclusions. We agree that two sales seems like a meager amount of data to support a land value that ultimately represents more than 50% of MaRous's total value conclusion under the cost approach. One of his comps is clearly too small to support a comparable big box property at only 3.33 acres. We also note that neither of the comps was purchased for retail use. Furthermore, we find MaRous's failure to even consider adjusting his comps for relevant differences troubling. Nevertheless, we note that Johnson used these same two comps to develop his estimated land values. Given the minor differences between MaRous and Johnson's respective land valuations and the land assessments under appeal, we ultimately find MaRous's land value conclusions to be reasonable.
90. We take no issue with MaRous's decisions regarding the development of his replacement cost estimate for the subject's main building. However, we find his failure to account for the value of the mezzanines, garden center, and warehouse areas highly problematic. While those areas undoubtedly have a lower square foot value than the main building, we are convinced that they add some value to the property. MaRous justified their exclusion by arguing that the market does not pay for such improvements, but he failed to provide persuasive evidence that that is true. Even if it is true, we conclude the proper way to account for the market's alleged unwillingness to pay for *existing improvements* is by demonstrating that those improvements suffer from obsolescence, not by pretending that they do not exist at all.
91. MaRous similarly failed to provide any support for his depreciated site improvement estimate of \$500,000/year. Instead of using Marshall & Swift to estimate the value of the site improvements, it appears that he simply selected a number. MaRous attempted to justify his site valuation during cross-examination, but his explanation of how he arrived at his estimate was disorganized and unconvincing. Other than mentioning the size of the area unencumbered by the main building and the age of the property, he failed to

sufficiently explain how he arrived at a gross estimate or how he determined applicable depreciation. *Tr. Vol I at 107*. The fact that his estimate supposedly equates to about \$1,000 per parking space runs into an additional problem—we have concluded that the site improvements include approximately 840 paved asphalt parking spaces.

92. We also conclude that MaRous failed to adequately support his functional and external obsolescence deductions. To claim obsolescence, one must both identify its cause and demonstrate an actual loss of value to the improvements. *See Hometowne Associates, L.P. v. Maley*, 839 N.E.2d 269, 275 (Ind. Tax Ct. 2005) (stating that a taxpayer must provide probative evidence that identifies specific factors causing obsolescence and how those factors are causing an actual loss of value). Here, MaRous applied a 40% functional obsolescence adjustment to the subject for all three years under appeal because of a supposed lack of demand for a big box store the size of the subject. MaRous also attempted to justify this large adjustment by positing that the building's 330-foot depth limits the potential to repurpose the store for multitenant use due to the high cost of dividing the space into smaller storefronts.

93. The comps from MaRous's sales comparison approach weaken his claims by demonstrating both demand for large big box stores and a willingness among market participants to convert former big box stores into multitenant uses. All but one of his comps have sizes in excess of 100,000 square feet and they include the sale of a 192,814-square foot former Kmart. His comps also include the sales of a former Menard's store that was subsequently divided up for multitenant use and a former Target that was marketed for conversion to multitenant use. Furthermore, we find that by speculating about the conversion of the subject into a multitenant property, MaRous ignored the fact that he was supposed to be valuing the subject for its current use. Even if we agreed with MaRous's identification of the causes of the alleged obsolescence, he still failed to show how those factors caused the subject property to lose 40% of its value.

94. The same issues undermine MaRous's external obsolescence adjustment as well. We find his explanation concerning an oversupply of big box retail properties and the negative effects e-commerce is having on the big box market largely conclusory. He again failed to demonstrate how these alleged negative influences caused the subject property to lose 10% of its value.
95. That leads us to the residual depreciation analysis MaRous prepared as support for his total depreciation estimates of 74%, 76%, and 78%. His analysis relies on the six comparable sales from his sales comparison approach. However, MaRous failed to walk us through how he calculated the many cost estimates used to populate the analysis. Thus, we are unable to properly evaluate the reliability of his results. Even if all the figures are reliable, the analysis still fails to support MaRous's total depreciation estimates. According to MaRous, his analysis produced an average depreciation percentage of 86.2%, which he claims more than supports his overall depreciation conclusions. But that percentage has no bearing on the correct amount of depreciation applicable to the subject because it represents the total depreciation *for the comps over their lifetimes*, and they are all significantly older than the subject. A better measure might involve using their annual depreciation percentages to estimate the amount of depreciation to apply to the subject based on its age as of each valuation date. Thus, MaRous's residual depreciation analysis lends no support to his functional or external obsolescence deductions.
96. Based on the issues discussed above, we conclude MaRous failed to present a persuasive valuation under his cost approach.

b. MaRous's Sales Comparison Approach

97. We start by noting that we give Hall's Location Analysis little to no weight. Although the Assessor attempted to describe the analysis as looking at objective facts, an opinion regarding the superiority or inferiority of a comparable location is inherently subjective. Furthermore, we find Hall's analysis less compelling because he did not comply with

USPAP standards for a review appraisal. Regardless, we have identified several issues with MaRous's sales comparison approach that undermine its persuasive value without aid of Hall's review.

98. Johnson described Sale 1, a former Walmart (now a Rural King) as follows: The building was badly deteriorated at the time Rural King purchased the property. The copper wiring and the heating and air conditioning systems had all been vandalized and removed from the building, and it was basically a shell of a building with people living inside it. The selling broker reported it as "not in good condition." *Tr. Vol. II at 106-107*. Johnson's testimony makes us seriously question the size of MaRous's age/condition adjustment. MaRous's admissions that he did not speak to the buyer or seller and that he had no direct knowledge of the condition of that property at the time of sale also diminish his credibility. *See Tr. Vol. I at 145-146*.
99. As for Sale 2, the new user converted it to multitenant use, making us question its continued viability for a big box occupant. Similarly, Sale 4 was subsequently marketed for conversion to multitenant use. We are also troubled by the inclusion of Sale 5 given that it is about a third of the subject's size, and by the fact that it received the same percentage size adjustment as Sales 1 and 2, which are almost twice as big. Sale 6, a property Lowe's bought from the original owner while still a tenant is also problematic because MaRous did little to assuage our concerns regarding the existing relationship's potential impact on the purchase price. Finally, we find MaRous's decision to apply a use restriction adjustment to all six comps despite finding no support for such an adjustment in the market troubling and damaging to his credibility.
100. We might have disregarded some of these issues and found MaRous's sales comparison approach semi-convincing had he not continued to disregard the value of the mezzanines, garden center, and warehouse areas. But it still would not have carried the day because MaRous concluded to a unit value range of \$30-\$34/SF, which he admitted is higher than the adjusted average of his six primary comps (\$28.52/SF), higher than the average of his

15 secondary comps (\$25.42/SF), and higher than the price of his only comp from Bloomington (\$16.08/SF). When combined with the other issues, his selection of an unsupported unit value leads us to conclude that his sales comparison approach is unpersuasive.

c. MaRous's Income Capitalization Approach

101. As with the sales comparison approach, we give Hall's Location Analysis of MaRous's rent comps little to no weight. Nevertheless, many of MaRous's rent comps are far from convincing even without a fellow expert picking them apart.
102. MaRous's search for larger single-tenant retail facilities led to the inclusion of three comparable rental properties in Bloomington and five from the Chicago area. The properties range in size from 25,302 to 137,391 square feet, but only Comp 3 (the Bloomington Lowe's) is larger than 100,000 square feet. Comp 3 is also the only property with a similar use as the subject, but its lease commenced after the relevant valuation dates. MaRous obtained the confidential lease data for his other two Bloomington rent comps from an appraisal report prepared by Johnson, which prevented him from accessing pertinent information. Despite acknowledging that asking rates are almost always higher than actual contract rates, he resorted to using the asking rates for his remaining rent comps even though all but one had signed leases in place. Based on our review of his rent comps, we are not convinced that MaRous had sufficient market evidence from properties similar enough to the subject to produce a reliable rent conclusion.
103. We also take issue with MaRous's 15% vacancy rate. His entire analysis consisted of reviewing two vacancy rates reported for the second quarter of 2017. One showed overall retail vacancy rates in Indianapolis of 5.90%. The other showed vacancy rates for neighborhood centers of 10.79%, but MaRous failed to elaborate on whether the rates for the neighborhood centers were a subset of the Indianapolis vacancy data. He then summarily stated that from a market perspective, an owner-occupied big box retail store

like the subject warrants a much higher stabilized vacancy rate. Because MaRous failed to support his 15% vacancy rate determination with actual market data, we find it is unreliable. This finding also calls into question MaRous's estimated holding costs and his loaded cap rate, and thus his final value conclusions under the income approach.

104. Additionally, we find that MaRous provided insufficient support for his tenant improvement expense. MaRous estimated expenses of \$0.75/SF to account for capital improvements he deemed necessary to attract a tenant to lease the subject. But he offered no explanation for how he arrived at that value, which when calculated out accounts for almost half of the total estimated expenses in his NOI estimates.
105. Based on the foregoing, we conclude that MaRous failed to offer a persuasive valuation using the income approach.

2. Johnson's Appraisal

106. We now turn to Johnson's appraisal. Like MaRous, he analyzed the value under all three generally accepted appraisal approaches, but he largely relied on data from dissimilar properties in an effort to use data from properties within the subject's submarket. Although this choice had a detrimental effect on his sales comparison and income approaches, the damage to his cost approach was minimal. We ultimately conclude that his cost approach is the most persuasive evidence of the subject's true tax value before us.

a. Johnson's Cost Approach

107. Johnson's focus on selecting comparable land sales from Bloomington led him to use some questionable land sales as comps. Although two of his land comps are larger sites, at 1.92 acres and 3.33 acres his other two comps are clearly not big enough to support a big box retail store like the subject. We are also confused by Johnson's land value conclusion for 2016 because it appears he failed to account for the \$385,000 he allocated

to the 2.49-acre parcel. On balance, however, we find Johnson's data and analysis more persuasive than MaRous's. And the small spread between their respective land valuations and the assessments, leads us to conclude that Johnson's land value conclusions are fairly reliable.

108. Menard took no particular issue with Johnson's replacement cost estimate, and we likewise find little of concern. We also think Johnson was correct to develop replacement cost estimates for the mezzanine space, garden center, and warehouse area. Although we question the appropriateness of Johnson's 10% entrepreneurial incentive adjustment, it is a relatively minor point.
109. Menard's largest criticism of Johnson's cost approach was that he failed to account for functional and external obsolescence. We agree that Johnson provided little more than a cursory explanation for why he found the subject suffered from no obsolescence. However, Menard's appraiser failed to credibly identify a cause of functional or external obsolescence or to demonstrate an actual loss of value to the subject's improvements from either form. Additionally, given the trouble both appraisers had in finding good comparable sales, there may simply be insufficient market data available to support an obsolescence adjustment. Thus, we conclude Johnson's cost approach is probative even without accounting for functional or external obsolescence.
110. Although Johnson's cost approach is not perfect, we ultimately conclude that it is persuasive evidence of the subject's true tax value.

b. Johnson's Sales Comparison Approach

111. As with his land valuation analysis, Johnson's focus on locating sales from a relatively small area surrounding Bloomington resulted in the use of comps sharing little similarity to the subject. Johnson's inability to locate sales involving big box retail properties in the Bloomington area should have prompted him to expand his search to other comparable markets. As things stand, however, Johnson relied on only one sale with more than

100,000 square feet and a site large enough to accommodate a big box retail store (Sale 4). But it is a multitenant neighborhood shopping center, making it a poor substitute as well. While some of the additional sales data Johnson included as support were within a more appropriate size range, they ultimately do little to help given his admission that the underlying sales included shopping centers and leased fee sales. We conclude that Johnson's failure to use comparable sales totally undermines the persuasive value of his sales comparison approach.

c. Johnson's Income Capitalization Approach

112. The same problems that undermined Johnson's sales comparison approach are fatal to his income approach as well. Johnson prioritized searching for leases based on their proximity to the subject over locating properties of an appropriate size for inclusion in his market rent analysis. With sizes ranging from 4,495 square feet to 30,546 square feet, his 10 primary lease comps are all significantly smaller than the subject. Given that level of disparity, we are simply not convinced that these leases tell us anything about the appropriate rental rate for the subject. In fact, Johnson ultimately concluded to market rental rates (from \$6.00/SF to \$6.50/SF) that are lower than the rental rates for any of his primary lease comps, which ranged from a low of \$7 to a high of \$14 during both 2015 and 2016.

113. Johnson acknowledged his primary rent comps were "real small." He therefore tried to support his market rent conclusions using a second set of eight comps with sizes ranging from 7,500 square feet to 62,000 square feet. However, only one of them is larger than 50,000 square feet, many of them are not freestanding stores, and the rental rate for one was an asking rate. Johnson also reviewed a CoStar survey of Bloomington leases over 2,000 square feet, but he gave it little weight. His review of the asking rates for five regional leases, only two of which are larger than 100,000 square feet, offers no real help either.

114. We also find Johnson's 10% vacancy rate to be unsupported. The vacancy rates for retail properties in Bloomington that Johnson reviewed averaged 11% in 2012 and 9.3% in 2015. The national report he consulted showed vacancy rates for general retail properties of less than 5% from 2006 to 2017, while a comparison of vacancy rates indicated that rates were trending down during the years at issue. Johnson also noted that the *highest vacancy rate* reported was under 10% during that same timeframe, while the best available data (from the Evansville and Indianapolis markets) pegged their vacancy rates at 4.4% and 5.4% in 2017. Finally, we note Johnson even admitted that his 10% estimate was more than the national average and the rates of local retail properties he surveyed.
115. Because most of Johnson's comparable lease data came from dissimilar properties, he has failed to convince us that his estimated market rental rates are reliable. Thus, even without the additional vacancy rate issue, we would still conclude that his income approach is unpersuasive.

E. WEIGHING THE EVIDENCE

116. Both appraisers analyzed the subject property's value using all three generally accepted valuation approaches. MaRous considered his sales comparison approach to be the most reliable indicator of value. However, it has some major flaws that render it unpersuasive. MaRous's cost and income approaches likewise fail to offer persuasive valuations. Johnson did not fare much better. His sales comparison and income approaches are both unpersuasive due to his reliance on data from dissimilar properties. Nevertheless, Johnson's cost approach was relatively well-supported, and we find it offers persuasive evidence of the subject's true tax value.
117. We have two imperfect appraisals, neither of which is completely devoid of probative value. After weighing the evidence, we conclude that Johnson's value conclusions under the cost approach are the most persuasive evidence of the subject's true tax value before us. However, we cannot overlook the weaknesses present in Johnson's land value analysis. Nor are we willing to ignore the fact that Johnson's cost approach conclusions

represent the highest valuations presented to us, or that his reconciled value conclusions are significantly lower than his conclusions under the cost approach. Thus, while we find Johnson's cost approach supports the current assessments, we ultimately conclude that it is not a strong enough indicator of value to increase them.

V. CONCLUSION

118. We find for the Assessor and order no change to the 2015, 2016, or 2017 assessments.

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>>.