

REPRESENTATIVES FOR PETITIONER: Paul Jones, Paul Jones Law, LLC  
REPRESENTATIVES FOR RESPONDENT: Beth Henkel, Attorney at Law  
Stefan Kirk, Kirk Law Office, LLC

---

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

SUPREME PROPERTIES NORTH, INC. ) Parcel Numbers: See Attachment A  
SUPREME CORPORATION, INC. )  
G2 LTD A TX LTD PTR )  
)  
v. ) Petition Numbers: See Attachment A  
)  
ELKHART COUNTY ASSESSOR, ) County: Elkhart  
)  
Respondent. ) Assessment Year: 2012

---

**April 12, 2018**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DETERMINATION**

**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. These appeals present a unique valuation problem. Supreme Corporation North, Supreme Corporation, and G2 LTD (collectively “Supreme”) owned a highly physically integrated campus that included 22 parcels with 30 buildings stretching over approximately 120 acres. The expert witnesses differed over whether to value the campus as a single economic unit or as smaller, independent properties. The question is further complicated by the fact that

only 12 of the 22 parcels are before us on appeal. Although both approaches pose difficulties, we find the appraisal of the Elkhart County Assessor's primary expert, in which he valued the 12 parcels as nine independent properties, too unreliable because it fails to account for the substantial costs involved in separating the properties. While far from perfect, we find that the cost-approach analysis from Supreme's expert, in which he valued the campus as a whole, is the best evidence of value after deducting his unsupported adjustment for external obsolescence. We therefore order the assessments under appeal changed so that the total assessment for the 22-parcel campus does not exceed that amount.

### **PROCEDURAL HISTORY**

2. Supreme appealed the 2012 assessments for 15 parcels on and around Kercher Road and Highway 33 in Goshen. The parties settled three appeals through informal processes at the local level. For the 12 remaining appeals, the Elkhart County Property Tax Assessment Board of appeals issued determinations assessing the parcels for a total of \$6,275,200. *See Joint Ex. A.*
3. Supreme then timely filed Form 131 petitions on these twelve parcels. At Supreme's request, we held a single hearing on the 12 appeals. David Pardo, our designated administrative law judge ("ALJ"), held a two-day hearing, which began on April 10, 2017.
4. Three appraisers testified at the hearing: David Hall and Gavin Fisher for the Assessor and Lawrence Mitchell for Supreme. Jim Yoder, Director of Corporate Facilities for Supreme Corporation, also testified. All these witnesses were sworn.

5. The parties offered Joint Exhibit A, entitled “Supreme Corporation & G2 Burden Shift Issue,” and Joint Exhibit “B,” an uncertified written transcription from an audio recording of the hearing.<sup>1</sup>

6. Supreme offered the following exhibits:

Petitioners Exhibit A	March 15, 2017 appraisal report prepared by Lawrence Mitchell
Petitioners Exhibit B	Aerial map of Supreme’s campus with arrows depicting process flow as of March 1, 2012
Petitioners Exhibit C	Aerial map of Supreme’s campus with lines and notations regarding utilities as of March 1, 2012
Petitioners Exhibit D	Larger version of Petitioners Exhibit B (demonstrative)
Petitioners Exhibit E	Larger version of Petitioners Exhibit C (demonstrative)
Petitioners Exhibit G <sup>2</sup>	EU # 2 Flood Area aerial map
Petitioners Exhibit H	EU # 3, 4, 5 aerial map
Petitioners Exhibit I	Michiana Regional GIS Website EU# 6 parcels
Petitioners Exhibit J	Map and information for parcel 20-11-14-376-008.000-015
Petitioners Exhibit K	Map and information for parcel 20-11-24-376-023.000-015
Petitioners Exhibit L	Michiana Regional GIS Website EU #7 parcels
Petitioners Exhibit M	Map and information for parcel 20-11-14-376-021.000-015

7. The Assessor offered the following exhibits:

Respondent Exhibit 1	August 29, 2016 appraisal report prepared by David Hall and Michael Lady
Respondent Exhibit 2	Excerpts from <i>The Appraisal Institute, Appraisal of Real Estate</i> (14 <sup>th</sup> ed.) pp. 163-65, 299-301,308, 331-34, 336, 357
Respondent Exhibit 2A	Excerpts from <i>The Appraisal of Real Estate</i>
Respondent Exhibit 3	Excerpt from the Indiana Code
Respondent Exhibit 3A	Excerpt from 2011 Real Property Assessment Manual

---

<sup>1</sup> The parties submitted this for the convenience of the Board and themselves. They acknowledge that, to the extent there is any discrepancy between the transcript and our recording of the hearing, our recording controls.

<sup>2</sup> Supreme did not offer an Exhibit labeled as “F.”

Respondent Exhibit 4	Subject's Current Uses (as of effective date)
Respondent Exhibit 5	Subject's Current Uses (showing parcel configurations)
Respondent Exhibit 6	Subject's Current Uses (showing building configurations)
Respondent Exhibit 7	Subject's Current Uses (as reported by ownership)
Respondent Exhibit 8	Market Segmentation Analysis Adjacent Industrial User
Respondent Exhibit 9	Market Segmentation Analysis Forest River Complex
Respondent Exhibit 10	Market Segmentation Analysis Assemblage of Uses by Keystone RV
Respondent Exhibit 11	Market Segmentation Analysis Goshen Industrial Development
Respondent Exhibit 12	Supreme Corporation – Recent Sales and Listings
Respondent Exhibit 13	Subject's Current Uses Subject Sales and Listings
Respondent Exhibit 14	Bradley Company listings
Respondent Exhibit 15	Sales disclosure form for sale from Supreme Midwest Properties, Inc. to Skypoint Transit, LLC
Respondent Exhibit 16	Aerial photograph of properties listed as A-D and information from CoStar listing
Respondent Exhibit 17	Multi-Building Industrial Offering from Newmark Grubb Cressy & Everett
Respondent Exhibit 18	Sales disclosure form for sale from Supreme Indiana Operations, Inc. to Maple City Commercial Leasing, Inc.
Respondent Exhibit 19 A	Lease between G-2 Ltd. and Supreme Corp.
Respondent Exhibit 19 B	Fourth Extension of Lease Agreement
Respondent Exhibit 19C	Securities and Exchange Commission ("SEC") Form 8K filing
Respondent Exhibit 19 D	SEC Form 10-K/A filing
Respondent Exhibit 19 E	E-Valuate appraisal prepared by John Carnine
Respondent Exhibit 19 F	Exercise of Option to Purchase
Respondent Exhibit 20	September 15, 2016 appraisal report prepared by Mitchell
Respondent Exhibit 21	Spreadsheet titled "G2 Parcels"
Respondent Exhibit 22	Aerial view of parcels owned by G2 as of March 1, 2012 with excerpts from Hall's appraisal and list of parcels under appeal
Respondent Exhibit 23	Spreadsheet depicting 22 parcels and values
Respondent Exhibit 24	Supreme Corporation – Sale of Parcel to Skypoint Transit, LLC
Respondent Exhibit 25	Supreme Corporation Properties (sale to Maple City Leasing)

Respondent Exhibit 26	Excerpt from <i>The Appraisal of Real Estate</i> p. 404
Respondent Exhibit 27	Excerpt from <i>The Appraisal of Real Estate</i> p. 399
Respondent Exhibit 28	Relationship Between Unit Price and No. of Buildings (Valbridge) graph
Respondent Exhibit 29	Valbridge Appraisal – Sales Comparison Approach chart

- The record also includes (1) all pleadings, briefs, and documents filed in the current appeals, (2) all orders and notices issued by the Board or our administrative law judge, and (3) a digital recording of the hearing.

### III. FINDINGS OF FACT

- Supreme owned 22 parcels, including the 12 parcels at issue in these appeals. As of the hearing date, it used the 22-parcel campus to assemble bodies for trucks, buses, and trolleys. The following aerial map generally depicts the campus:<sup>3</sup>



*Resp't Ex. 20 at iv.*

<sup>3</sup> The map is from 2011. It appears to omit some land in the far northwest and southeast parts of the campus.

10. The campus included approximately 120.62 acres of land and 566,186 square feet of industrial building area spread across 30 buildings. Kercher Road bisected the campus, dividing it into north and south sections, which we will refer to as the “north campus” and “south campus” for ease of reference. Highway 33 ran diagonally along the campus’ western border, and Horn ditch ran along its eastern border. Another road—Supreme Court—ran north from Kercher Road in the western third of the north campus and terminates in a cul-de-sac. *Hall testimony; Pet’rs Ex. A at 2; Pet’rs Exs. B-C.*
  
11. There is a 75-foot setback along Horn ditch. At least some of the vacant land along the ditch appears to be in a floodplain, although the parties did not offer a survey with elevations to show precisely how much. There has been minor flooding along the ditch since the early 1980s. In 2006, a massive flood affected the northeast and southeast portions of the campus. Supreme lost more than \$1.5 million worth of chassis in the flood, most of which were stored on lots in the southeast part of the campus. The areas affected by the flood are contained in what the Assessor’s appraiser, David Hall, referred to as Uses 2 and 5. *Yoder testimony; see also Resp’t Ex. 1 at 39.*
  
12. Supreme also owned other property in the area, including a parcel immediately southwest of the south campus, which it sold to Maple City Commercial Leasing for \$1,250,000 in March 2013. Supreme used that property to run a separate division that made components for buses and trucks. *Hall testimony; Yoder testimony; Resp’t Exs. 8, 18, 25.*
  
13. While it might have been more efficient to perform some activities under one roof, the cost and regulation associated with fire protection led Supreme to develop smaller buildings over time to meet expansion needs. As of the assessment date, the campus hooked into city water and sewer mains at different locations. Multiple buildings spanning several parcels shared access from the same sewer and water mains. On the south campus, the same gas meters and electric pads likewise served multiple buildings across various parcel lines. The

south campus got fire protection through two points: a well connected to the city main located toward the far southeast part of the campus, and a private well between two buildings toward the north central section, just south of Kercher Road. Two wells on either side of a building in the northwest part of the north campus provided the only fire protection to buildings on the north campus. *Yoder Testimony; Pet'rs Exs. B-C.*

## **2. The Subject Property**

14. The twelve parcels under appeal, which we will refer to as the “Subject Property,” composed a large part of Supreme’s campus. All told, the Subject Property included 75.91 acres of land with 19 buildings and 426,731 square feet of net rentable building area. *Pet’r Ex. A at 82-85*

## **3. Sales and listings involving Supreme’s campus and the Subject Property**

15. Supreme sold its bus and trolley business, and in 2014 it began to consolidate its operations. It demolished some buildings on the south campus and built some new ones. By the hearing date, all of Supreme’s operations, except its corporate offices, were on the south campus. *Yoder testimony.*
16. Through brokers, Supreme began advertising various parts of its campus for sale. Newmark Grubb Cressy & Everett advertised what it described as a “four (4) building warehouse/manufacturing industrial complex totaling 197,267 square feet on approximately 20.5 +/- acres,” offering “a number of amenities ideal for both a single or multi-tenant user.” The cover of the marketing brochure is shown below.



*Resp't Ex. 17; Hall testimony.*

17. In discussing the 20.5-acre complex as a whole, the brochure indicated that there was “adequate access around the existing facilities and excess land to the north for outside storage or for constructing additional improvements.” With regard to the individual portions, the brochure listed “Municipal Water & Sewer; Natural Gas & Electric” under the heading of “Utilities.” The brochure also indicated that the North Lot had access from Supreme Court. *Resp't Ex. 17.*
  
18. The brochure did not list a price for the entire 20.5-acre complex. It instead listed both sale and triple-net lease prices for 2575 E. Kercher Road (\$4.55 million, \$3.25/sq. ft.), 2600 Supreme Court (\$500,000, \$2.75/sq. ft.) and 2500 Supreme Court (\$600,000, \$2.75/sq. ft.). It listed sale prices for the North and South lots of \$460,000 and \$787,000, respectively. Supreme ultimately leased 2600 Supreme Court for \$2.75/sq. ft. on a triple-net basis.

*Resp't Ex. 17; Yoder testimony.*



19. A different listing by Bradley Company also advertised several properties that composed segments of Supreme's campus:
- A larger property (29.93 acres, 208,667 square feet of building space) encompassing much of the area from the Newmark listing, for \$6.1 million.
  - A section of that larger property, which appears identical to the property Newmark listed as 2575 E. Kercher Rd., for \$4.6 million.
  - A property that appears identical to Newmark's 2500 Supreme Court listing (although there is a discrepancy in building size) for \$600,000.
  - A 7.87-acre property with 41,704 square feet of building space located southwest of 2500 Supreme Court, for \$2.2 million.

*See Hall testimony; see also Resp't Ex. 14.*

20. Finally, in 2015, Supreme sold an approximately 7.3-acre property to Skypoint Transit, LLC for \$320,000. The sale included what had previously been three tax parcels: 20-11-24-376-021.000-015 ("Parcel 21"), 20-11-24-376-025.000-015, and 20-11-24-326-009.000-015.<sup>4</sup> Only Parcel 21 is on appeal. Following March 1, 2012, but before the sale, the first two parcels were combined under Parcel 21. Before the combination, Parcel 21 contained only .61 acres. *See Mitchell testimony; see also Hall testimony* (stating that, while the property he identified as "Use 7" in his appraisal is now a single parcel, it may have been multiple parcels in 2012); *Joint Ex. A; Resp't Ex. 15; Pet'rs Ex. L.*
21. Supreme either spent or has contracted to spend money in connection with marketing properties on the north campus. It disconnected pager and phone systems at 2600 Supreme Court. It also renovated that property, including either installing or repairing siding, insulation, and overhead doors. Because that building had gotten its fire suppression from another part of the campus, Supreme paid to switch the fire-suppression system. All told, Supreme either spent or had contracted to spend \$203,000 on 2600 Supreme Court. Supreme also disconnected the pager and phone systems at 2500 Supreme Court and was in the process of disconnecting its fire suppression system and renovating and demolishing

---

<sup>4</sup> The parcel numbers used by the appraisers and included in information from Elkhart County's websites do not match the numbers listed on Supreme's petitions. Supreme apparently used key or tax identification numbers for those petitions. We have used the numbers from the petitions in our hearing notices and orders.

improvements. It is unclear how much Supreme had spent or contracted to spend on that property as of the hearing. *Yoder testimony*.

22. Supreme also had an “all-in” budget of \$267,000 beyond the money it had spent on 2600 and 2500 Supreme Court. That budget was for the costs of providing reasonable separation of properties on the north campus so it could sell individual parcels. The biggest cost was separating fire protection and utilities. But there were also costs for survey work and other items. *Yoder testimony*.
23. To the extent the Newmark listing and other marketing materials advertised the various components of the north campus as having utilities, we find that they reflected either what Supreme had already accomplished through its efforts to provide reasonable separation or what it anticipated accomplishing prior to selling any of the listed properties.

## **B. Expert Opinions**

### **1. Larry Mitchell**

24. Supreme hired Larry Mitchell of Valbridge Property Advisors to appraise the Supreme’s property for these appeals. Mitchell is a certified appraiser and a member of the Appraisal Institute (“MAI”). He has appraised many industrial facilities, including facilities as large as a 3,000,000-square-foot steel plant and 2,000,000-square-foot drywall plant. *Mitchell testimony*.
25. Supreme’s tax representative originally hired Mitchell to appraise only the Subject Property. He prepared a report estimating the value of those parcels at \$3.5 million as of March 1, 2012. Although there were some differences between the appraisals, Mitchell did not believe they were material. *Mitchell testimony; Resp’t Ex. 20*.

**a. Market analysis**

26. Mitchell analyzed the local and regional markets. In his market-segmentation analysis, he determined that the campus should be viewed as a single economic unit based on the following physical and operational attributes:
- Related entities owned all 22 parcels.
  - Supreme had pledged all 22 parcels as collateral for a line of credit.
  - Supreme used all 30 buildings together as a single business operation.
  - The same employer employed all the workers at the property.
  - Supreme used a single accounting system to pay maintenance and property expenses.
  - Supreme insured all 22 parcels under a single policy.
  - The sites share several utility connections that would need to be addressed if the campus was broken up.
  - Zoning issues, such as compliance with setback requirements, would need to be addressed if the campus was broken up.

*Mitchell testimony; Pet'rs Ex. A at 2.*

27. In Mitchell's view, the campus was a single use; it was no different from Supreme having one 566,000-square-foot building with offices, manufacturing, truck maintenance, and storage space. Under the market-value-in-use standard, Mitchell felt that he had to include Supreme, as the current owner, in the hypothetical pool of potential users. He concluded that Supreme or a similar user would use the property as a single economic unit. *Mitchell testimony; Pet'rs Ex. A at 2.*
28. Mitchell did not believe the campus so specialized as to preclude another entity from using it. He also found what he believed was sufficient data to suggest that properties of the same type as Supreme's campus exchanged frequently for their current use in comparison to the total number of properties in the market. *Pet'rs Ex. A at 4.*
29. While Mitchell recognized that the various parcels composing Supreme's campus could also be sold separately, he explained that the campus' value would not be the sum of those

individual sale prices without any discount. To the contrary, a buyer of all the parcels in a single transaction would consider the timing and costs of selling individual parts to future buyers and would discount its offer to account for the time value of money and the expense and risk of selling the individual parts. According to Mitchell, this is a market-absorption-discount analysis, and it usually results in a value much lower than the sum of the individual parts. Similarly, if Supreme offered all the individual parcels on the market at the same time, any valuation would need to account for how the sudden change would affect supply and demand. *Pet'rs Ex. 1 at 2; Mitchell testimony.*

30. Mitchell viewed the property's primary market area—which he characterized as a grouping of complimentary land uses that have competition from buyers and sellers—as similar industrial nodes in Northern Indiana and Southern Michigan. He found that its secondary market areas would be industrial nodes throughout central to northern Indiana, Ohio, and Michigan that had stable infrastructure and transportation access points. *Pet'rs Ex. A at 37-38.*
31. Mitchell looked at various economic indicators, such as employment levels, absorption for industrial facilities between 300,000 and 900,000 square feet, and supply and demand data, for his primary market area. He concluded that material economic weakness was affecting the market as of the assessment date, including:
  - A 9.5% unemployment rate that was higher than the national average.
  - Wages that were below state and national averages.
  - An industrial property availability rate over 10%, which was among the highest of any year from 2007 to 2014.
  - The absence of any new construction from 2010 to 2013.
  - The second highest loss of demand (negative absorption) for any year from 2007 to 2015.

*Mitchell testimony; Pet'rs Ex. A at 39-44.*

32. In addition, Mitchell looked at the South Bend-Mishawaka market for industrial properties, because CoStar, an aggregator of commercial real estate information, produced an

overview of that market. He found similar economic weakness in that market, as indicated by (1) limited new development from 2008 to 2015, (2) the highest vacancy rate for any year between 2008 and 2016, (3) rental rates that were among the lowest for that period, and (4) the net loss of over 1.1 million square feet of occupied industrial space. *Mitchell testimony; Pet'rs Ex. A at 45-46.*

#### **b. Valuation of Supreme's campus**

33. Mitchell first valued Supreme's campus as a whole. He considered all three generally accepted approaches to value—the cost, sales-comparison, and income approaches. He did not develop the income approach, however, because industrial properties like Supreme's campus are typically owner-occupied, and there was a lack of lease data available for similar properties. *Pet'rs Ex. A at 79; Mitchell testimony.*

#### **i. Cost approach**

34. Mitchell began with the cost approach. To estimate a land value, he used three Indiana land sales from Michigan City, Fort Wayne, and Acton, and a sale from Battle Creek, Michigan, all of which occurred between October 2009 and December 2012. The sites were between 70.7 and 100.24 acres, and the sale prices ranged from \$9,299/acre to \$16,240/acre. *Pet'rs Ex. A at 48-50; Mitchell testimony.*
35. Mitchell considered adjusting the sale prices to account for transactional issues, including differences in market conditions between the sale and valuation dates, and for various ways in which the sites differed from Supreme's campus. According to Mitchell, discussions with market participants and his review of market data indicated that overall market conditions for vacant land had been improving. He therefore applied an adjustment of 3% per year to reflect that appreciation. *Pet'rs Ex. A at 52.*
36. He also considered adjustments for physical characteristics, including differences in location, size, shape and depth, frontage, and topography. Mitchell acknowledged that

there is generally an inverse relationship between a site's size and its per-unit price. But he did not find that any adjustments were warranted for his comparable sites, which were large, but still smaller than Supreme's campus. He did adjust two sale prices for locational differences and one for topography, because a ravine impaired its functionality. Although he testified that parts of Supreme's campus were in a floodplain, he did not adjust for the fact that none of his comparable sites were similarly situated in that regard. His adjusted sale prices ranged from \$8,668/acre to \$15,219/acre. Based on "the most comparable sale," which he did not identify, Mitchell believed a value near the upper end of that range was indicated. He settled on \$15,000/acre, which translated to \$1,810,000 (rounded) for the campus. *Mitchell testimony; Pet'rs Ex. A at 54-55, 101-04.*

37. Mitchell then used Marshall Valuation Service to estimate the replacement costs for the buildings and site improvements. He added an additional 2% for indirect costs that were not included in Marshall's cost information. *Mitchell testimony; Pet'rs Ex. A at 56-61.*
38. He did not add anything to account for entrepreneurial incentive. Quoting from the 14<sup>th</sup> edition of *The Appraisal of Real Estate*, Mitchell explained that entrepreneurial incentive is a market-derived figure that accounts for the compensation necessary to motivate investors to provide their expertise in coordination and to assume the risks associated with a project. But he explained that entrepreneurial incentive is only as reliable as market data warrants. Because there was virtually no new construction during 2012, he believed that it was impossible to reliably estimate incentive. And as *The Appraisal of Real Estate* explains, for an owner-occupant, entrepreneurial profit is theoretical profit that will likely become obscured over time by changing market conditions. Those users do not buy properties as investments—they use them for their businesses. *Mitchell testimony; Pet'rs Ex. A at 62.*
39. Mitchell then used the age-life method to estimate physical deterioration. Because the multi-building layout created workflow inefficiencies and higher-than-typical operating expenses, he considered whether the improvements suffered from obsolescence. He

believed that a “matched pair” analysis supported an adjustment for functional obsolescence. In that analysis, he compared the adjusted unit prices for a property from his sales-comparison analysis that had 13 buildings to the adjusted unit prices for the other comparable properties, which had between one and five buildings. He found a discount for multiple buildings ranging from -1.25%/bldg. to 6.2%/bldg., with an average of 2.07%. According to Mitchell, most of the parameters indicated that 2% to 3% was supportable. *Mitchell testimony; Pet’rs Ex. A at 65-66.*

40. In Mitchell’s view, an ideal layout would be a single building, which would create the most efficient product flow. While that might suggest a discount of 60% to 90% for Supreme’s 30 buildings, his data only covered properties with up to 13 buildings. So the maximum loss was 26% to 39%. As additional support, Mitchell interviewed the brokers from those sales. Their opinions on the discount attributable to the multi-building configuration ranged from 20% to 40%. He also interviewed two other industrial brokers who believed that a 30-building configuration would require a discount ranging from 30% to 50%. Considering all that information, Mitchell applied a discount equal to 30% of the improvements’ replacement costs after accounting for physical deterioration. *Mitchell testimony; Pet’rs Ex. A at 65-67.*
  
41. Next, Mitchell considered whether the improvements suffered from external obsolescence. Based on his findings of economic weakness from his market analysis, he concluded that they did. To calculate his adjustment, Mitchell looked at three economic indicators: availability of large industrial properties within a 50-mile radius of Supreme’s campus, vacancy rates for industrial properties in the South Bend-Mishawaka market, and asking rental rates from that market. He then calculated each indicator’s average value for 2007 to 2014 and compared it to the value for 2012. The differences ranged from 2.7% to 5.2%. He applied an adjustment equaling 5% of direct and indirect replacement costs. *Mitchell testimony; Pet’rs Ex. A at 66-67.*

42. After all his adjustments, Mitchell ended up with the following value under the cost approach:

Replacement Cost New	\$22,707,780
<u>Accrued Depreciation</u>	
Physical Deterioration	-\$13,406,925
External Obsolescence	-\$1,135,389
Functional Obsolescence	-\$2,790,256
Depreciated Cost of Improvements	<u>\$5,375,209<sup>5</sup></u>
Estimated Land Value	<u>\$1,810,000</u>
<b>Total Value</b>	<b>\$7,190,000 (rounded)</b>

*Mitchell testimony; Pet'rs Ex. A at 67.*

#### **ii. Sales-comparison approach**

43. Turning to the sales-comparison approach, Mitchell explained that, while Supreme's campus would "compete initially in the Elkhart-Goshen IN CBSA," other potential buyers for industrial property of that size would come from most of the Midwest. He looked for sales of industrial properties with between 300,000 and 900,000 square feet of space. He found five Indiana sales: one each from Wakarusa, South Bend, Middlebury, Syracuse, and Plymouth. He also found a sale from Chesterfield, Michigan and one from Middletown, Ohio. The facilities had effective ages ranging from seven to 35 years (he found that the weighted average effective age for Supreme's campus was 21 years), and they had between 321,938 and 714,870 square feet of building space. Their land-to-building ratios ranged from 2.36:1 to 8.05:1. Five of the seven ratios were under 6:1 and three were less than 3:1. The comparable properties sold between June 2009 and December 2012 for prices ranging from \$2,660,320 to \$8 million and from \$5.35/sq. ft. to \$19.19/sq. ft. of building space. *Mitchell testimony; Pet'rs Ex. A at 68-71.*

44. As with his analysis of comparable land sales, Mitchell considered adjusting the sale prices for transactional issues as well as for differences in physical characteristics between his

---

<sup>5</sup> These calculations actually yield \$5,375,210 for the depreciated cost of improvements.



comparable properties and Supreme's campus. He made two transactional adjustments. First, based on conversations with participants to the sales, he adjusted three sale prices for atypical seller motivations. While Mitchell acknowledged that those types of sales should be used with caution, he explained that the market was in flux during the period leading up to the assessment date, and that sales where parties were not typically motivated were more common than they were during periods when the market was stronger. Second, he adjusted for market conditions based on annual appreciation of 3%. *Mitchell testimony; Pet'rs Ex. A at 72.*

45. Mitchell also made several adjustments for physical characteristics, including differences in effective age, clear height, percentage of office finish, and land-to-building ratio. Because he found that all the properties were in areas with reasonably similar economic conditions, he did not make any location adjustments. He similarly did not adjust for differences in size. While economies of scale generally create an inverse relationship between size and per-unit sale prices, Mitchell found that the data did not support an adjustment for size differences within the property's submarket. *Mitchell testimony; Pet'rs Ex. A at 72-76.*
46. Although Mitchell found that the campus' multi-building layout created functional inutility compared to the other properties, he did not directly adjust for that factor in his analysis. He instead considered it in reconciling the adjusted sale prices. *Mitchell testimony; Pet'rs Ex. A at 74.*
47. Mitchell's adjusted sale prices ranged from \$8.43/sq. ft. to \$15.45/sq. ft., with a median of \$11.43/sq. ft. and an average of \$11.41/sq. ft. He believed that the most comparable property was the 492,290-square-foot facility with 13 buildings from Wakarusa that Forest River bought for an adjusted price of \$9.91/sq. ft. He gave slightly greater weight to that sale and to the sale of the property from South Bend that had five buildings and sold for an adjusted price of \$12.78/sq. ft. He also felt that Supreme's campus would sell for significantly less than the \$13.33/sq. ft. unadjusted sale price for the South Bend property,

which had a single 542,250-square-foot building constructed in 2005. But he did not explain why a significantly older, four-building property from Plymouth with a much smaller land-to-building ratio than the South Bend property sold for an unadjusted price of \$15.65/sq. ft. In any case, given the relative inutility of Supreme’s multi-building layout, Mitchell concluded that \$11/sq. ft.—a value slightly below the middle of the range for his adjusted sale prices—was reasonable. That yielded a total value of \$6,230,000 for Supreme’s campus. *Mitchell testimony; Pet’rs Ex. A at 78.*

### **iii. Reconciliation**

48. In reconciling his conclusions under the two valuation approaches, Mitchell explained that the sales-comparison approach best represented the motivations of owner-users, who were the most typical buyers for large, multi-building industrial properties like Supreme’s campus. In light of the availability and reliability of data for his sales-comparison analysis, he gave his conclusions under that approach more weight. According to Mitchell, the market was not considering the cost approach in valuing properties around the March 1, 2012 assessment date. He developed an opinion under that approach primarily to quantify and highlight the functional and economic obsolescence affecting the property. He settled on a value of \$6,570,000 for the campus as a whole. *Mitchell testimony; Pet’rs Ex. A at 80.*

### **c. The Subject Property**

49. To determine the value that the Subject Property contributed to Supreme’s campus, Mitchell applied the same valuation methods he used to estimate the campus’ value. In his cost approach, he used the same land sales and came to the same per-acre value, which yielded a total land value of \$1,140,000. The replacement cost for the improvements differed because he only included the parcels on the Subject Property. But his analysis was the same, and he applied the same percentage adjustments for functional and external obsolescence:

Replacement Cost New	\$15,046,561
<u>Accrued Depreciation</u>	

Physical Deterioration	-\$10,144,170
External Obsolescence	-\$752,328
Functional Obsolescence	<u>-\$1,470,718</u>
Depreciated Cost of Improvements	\$2,679,346 <sup>6</sup>
Estimated Land Value	<u>\$1,140,000</u>
<b>Total Value</b>	\$3,820,000 (rounded)

*Mitchell testimony; Pet'rs Ex. A at 86-89.*

50. Mitchell used the same sales for his sales-comparison analysis of the Subject Property as he used in his analysis of Supreme's campus. His adjustments for effective age, clear height, and percentage of office space differed because the weighted averages of those characteristics for the Subject Property's buildings differed from the weighted averages for the buildings from the entire campus. The same was true for the land-to-building ratio—the Subject Property's ratio was only 7.75:1 while the ratio for the campus as a whole was 9.28:1. The adjusted sale prices ranged from \$6.70/sq. ft. to \$13.70/sq. ft. with a median and average of \$9.84/sq. ft. and \$9.77/sq. ft., respectively. Mitchell settled on a value of \$9.00/sq. ft. or \$3,840,000 for the Subject Property after considering the same factors he used to reconcile the adjusted sale prices in analyzing the campus as a whole. *Mitchell testimony; Pet'rs Ex. A at 91.*

51. As with his analysis for the campus as a whole, Mitchell gave the most weight to his conclusions under the sales-comparison approach and estimated the Subject Property's value at \$3,830,000. For both the campus and Subject Property, however, Mitchell cautioned that his opinions tended to be too high. He explained that his sales-comparison analyses likely included some non-realty components, such as parking lot lights, foundations for equipment, and dock levelers, for which there was no way to adequately support deductions. *Mitchell testimony; Pet'rs Ex. A at iii, 76, 91-92.*

---

<sup>6</sup> These calculations actually yield \$2,679,345 for the depreciated cost of improvements.

## 2. David Hall

52. The Assessor hired David Hall and Michael Lady, MAI, Senior Managing Director of Integra Realty Resources, to appraise Subject Property. Only Hall testified, so for ease of reference, we will refer to the appraisal report and the valuation opinions therein as Hall's. Hall achieved his MAI designation in 2012. The American Institute of Certified Planners has also designated Hall as an AICP 6. He has been working as a general appraiser for 12 years and has appraised industrial and manufacturing properties. *See Hall testimony; Resp't Ex. 1 at cover letter, Addendum A.*

### a. Market analysis

53. Hall determined that, while the parcels composing the Subject Property were all used by Supreme on the assessment date, they did not all have the same general use, nor did they necessarily constitute a single unit. Some parcels had buildings used for manufacturing, while others had buildings used for storage or vehicle servicing or repair, and still others had no buildings at all. Hall therefore believed that the parcels were a complex of multiple uses, rather than a singular use or property. *Resp't Ex. A at 4; see also Hall testimony.*
54. For purposes of his assignment, Hall determined that the parcels should be divided into nine separate uses, which are pictured below:



*Resp't Ex. 1 at 39.*

55. Hall broke down the uses as follows:

- **Use 1:** a two-parcel manufacturing complex on 12.416 acres with four connected buildings totaling 138,195 square feet of building space.
- **Use 2:** a two-parcel manufacturing complex on 31.240 acres, with 126,362 square feet of building space across six buildings.
- **Use 3:** a 3.084-acre parcel containing a 22,860-square-foot building (Building P) configured as a service garage with 16 overhead truck doors.
- **Use 4:** a 3.837-acre parcel with a 30,820-square-foot building used for storage.
- **Use 5:** a 5.511-acre industrial parcel with a 25,200-square-foot building formerly used as a welding shop.
- **Use 6:** two parcels totaling 9.168 acres with direct frontage on Kercher Road, US Highway 33, and Supreme Court. As of March 1, 2012, Use 6 had four buildings with a total of 61,284 square feet of space. They were later demolished.
- **Use 7:** a seven-acre parcel containing two storage buildings with a combined 15,104 square feet of space. Only one building remained in 2016.
- **Use 8:** a 0.927-acre land parcel south of Kercher Road that is not contiguous to any of the other parcels under appeal.
- **Use 9:** a 7.721-acre land parcel at the far north of the parcels off Supreme Court.

*Hall testimony; Resp't Ex. 1 at 3; 40-151.*

56. Hall combined parcels into a single use when buildings straddled parcel boundaries, such as in Use 2, or when separately parceled buildings were located within the perimeter of another parcel, as in Use 1. He valued individual parcels that had separate freestanding buildings—Uses 3, 4, and 5—as independent industrial properties. *See Hall testimony; Resp't Ex. 1 at 3; 40-151.*

57. Hall viewed Uses 1 and 2 as separate from each other because of their different building configurations—Use 1 is a singular attached integral complex of building additions, while Use 2 has multiple buildings and significant expansion potential. According to Hall, an industrial user who wants to buy a property and build additional buildings over time might find it much easier to do that with Use 2 than Use 1. From a marketability standpoint, he assumed that a seller would find more potential buyers for these two as separate properties

than it would find for a singular use with all four parcels. Generally, smaller properties have a greater pool of buyers. *Hall testimony.*

58. According to Hall, the way a given owner uses a property may work for its business enterprise. But market value-in-use is not just value to the owner—it considers the broader spectrum of similar users. As Hall explained, he valued the properties for alternative industrial uses. It was not as if he valued them for unrelated uses such as apartments or offices. *Hall testimony.*
59. He pointed to what he believed was data supporting his view of the market segment in which the Subject Property would compete. Based on (1) the perspective of the owner or a similar user, and (2) his knowledge about supply and demand in the local market, Hall believed it would be arbitrary to value the parcels composing the Subject Property as a single unit just because they were all on appeal. As part of his market segmentation analysis, he looked at the parcels' physical characteristics. He also considered how the broader spectrum of alternative similar users would perceive the parcels as well as the actions of buyers and sellers. *Hall testimony.*
60. Hall found a supply of similar alternative properties that encompassed his nine Uses. He saw a pattern in the area where uses mostly were single buildings on single parcels, or two parcels with a few buildings. He highlighted several properties meeting those parameters. He also pointed to Keystone RV, which he believed was a similar industrial user to Supreme because it was a large manufacturer of recreational vehicles. Keystone bought and sold smaller industrial properties independently of each other. *Hall testimony; Resp't Exs. 10-12.*
61. Hall also pointed out that Supreme listed various portions of its campus separately, giving some indication that Supreme itself thought of the property as distinct and separate uses

and that brokers thought it was appropriate to market the property in that fashion. *Hall testimony; Resp't Exs. 13-17.*

62. Those separately listed properties largely corresponded to the Uses from Hall's appraisal. The Skypoint Transit sale corresponded to his Use 7. Similarly, the properties Newmark listed as 2500 Supreme Court, 2600 Supreme Court, and the North Lot closely mirrored Uses 4-5 and 9. And the properties that Newmark offered as 2575 Kercher Road and the South Lot included what Hall classified as Uses 3 and 8, respectively, as well as other parcels owned by Supreme that were not part of the Subject Property. Bradley Company similarly listed a property that generally corresponded with one of the two parcels composing Use 6, as well as properties that were similar to what Newmark listed. Finally, there was a separate listing copied from LoopNet delineating properties that also corresponded, at least in part, to Uses Hall identified in his report. Hall, however, acknowledged that he did not know of any listings that reflected the value of the parcels as of the March 1, 2012 assessment date. *Hall testimony; Resp't Exs. 13-17.*
63. In some cases, Supreme had demolished buildings between the assessment date and the date Hall inspected the parcels. He concluded that the utility of those improvements to a similar user would have been insignificant as of the assessment date. For Use 6, where Supreme had demolished all the buildings, he treated the property as if it was vacant and available for redevelopment. For Uses 1, 2, and 7, where Supreme had demolished individual buildings, he simply treated the buildings as if they had no contributory value. *See Resp't Ex. 1, at 48, 63, 114, 129, 228-53, 254-79, 354-85; Hall testimony.*
64. Hall also determined that two of the properties—Uses 2 and 7—had excess land. According to *The Appraisal of Real Estate*, “Any extra or remaining land not needed to support the specific use may have a different value than the land area needed to support that use” and “[e]xcess land has the potential to be sold separately and must be valued separately.” Based on (1) Use 2's physical characteristics and use, and (2) typical land-to-

building ratios for industrial properties, Hall determined that only 15 acres supported the existing improvements. The remaining 16.24 acres was excess land capable of being developed with a separate use. Similarly, Hall concluded that only 1.5 acres were needed to support the building on Use 7, and that the remaining 5.5-acre area was excess land, with good development potential based on its size, access, exposure, and frontage. *Hall testimony; Resp't Ex. A at 54, 60, 120, 126; Resp't Ex. 2A.*

65. When asked whether the separate Uses would have to comply with zoning requirements, Hall explained that if there were nonconforming aspects, such as a building that pre-dated the zoning ordinance not meeting setback requirements, the nonconformities would be “grandfathered.” So unless buyers planned to significantly “modify the property, expand it, [or] change the property lines,” he believed the Uses would comply with zoning. In any case, Hall testified that regardless of any nonconformities in terms of setbacks, frontage, or lot size, properties similar to his identified Uses routinely sell in the market. *Hall testimony.*
  
66. Hall performed both macro- and micro-economic analyses. Despite the recession, between 2010 and 2013, Elkhart County’s population increased at a slightly faster rate than Indiana’s population as a whole. Although employment declined by 3.1% from 2002 to 2012, most of that decline occurred between 2008 and 2009. That trend reversed in 2010, and total employment in the county increased by 5.3%, 3.1%, and 7.2%, each year between 2010 and 2012. That was higher than the rate of job growth for Indiana as a whole. Similarly, while there was a steep drop in asking rental rates between 2007 and 2009, that trend began to flatten out between 2010 and 2013. And although vacancy rates rose between 2007 and 2009, they began to decline by 2010. Thus, from 2010 forward, relatively stable market conditions prevailed for industrial property, rental rates stabilized, and market vacancy declined. *Hall testimony; Resp't Ex. 1 at 25-37.*



67. Hall therefore found that economic trends for the county as a whole, for the area surrounding Supreme's campus, and for the industrial market, were beginning to stabilize as of March 1, 2012. He concluded that typical buyers would forecast relatively stable conditions and demand. *Hall testimony; Resp't Ex. 1 at 24-38.*

**b. Valuation approaches**

68. Like Mitchell, Hall found that the income approach was inappropriate to use in valuing the property. He developed only the cost and sales-comparison approaches. *Resp't Ex. 1 at 22-23.*

**i. Cost Approach**

69. For his land valuations, Hall looked for sales of comparable, vacant industrial land in Elkhart County that bracketed the size of each Use. Although Hall looked at each Use independently, he considered many of the same comparable sales in his analyses of several different Uses. All of the sales occurred between January 2009 and August 2014. *Resp't Ex. 1 at 228-34, 254-61, 280-86, 304-16, 329-35, 354-58, 364-68, 386-91, 394-400, Addenda.*

70. Like Mitchell, Hall considered adjusting his sale prices to account for transactional issues as well as for differences between the comparable properties and the property he was appraising. Because his data suggested that vacancy levels and rental rates were relatively stable from 2010 through 2014, he believed that typical investors would have expected stable conditions and property values. Hall therefore did not adjust any sale prices for differences in market conditions. *Resp't Ex. 1 at 228-34, 254-61, 280-86, 304-16, 329-35, 354-58, 364-68, 386-91, 394-400.*

71. He did adjust for differences in size where comparable sites were significantly smaller than the site he was appraising. Even after adjusting for other elements of comparison, his data indicated that size explained some of the difference in unit price. In those instances, he

adjusted the sale prices downward between 5% and 10%. He also adjusted some sale prices to account for differences in access/exposure and physical characteristics (topography, shape, and other physical factors that affect utility). *Resp't Ex. 1 at 228-34, 254-61, 280-86, 304-16, 329-35, 354-58, 364-68, 386-91, 394-400.*

72. Hall acknowledged that three sites—the excess land in Uses 2, and 7 and part of Use 9—might be affected by floodplain, but he testified that without a detailed topographical survey with elevations, he could not accurately determine the extent of the floodplain. According to Hall, whether floodplain affects value depends on factors such as where buildings and parking lots are situated. If there is adequate buildable area outside the floodplain, it may not affect value. The maps suggested that the sites were capable of supporting development under the zoning ordinance and that there was sufficient area outside the floodplain to accommodate a typical building. He therefore did not make any floodplain-related adjustments. *See Hall testimony; see also Resp't Ex. 1 at 54-55, 121, 142-43, 228-34, 254-61, 280-86, 304-16, 329-35, 354-58, 364-68, 386-91, 394-400.*
73. Other witnesses raised questions about whether some of Hall's Uses would have (1) frontage along, and access from, public roads, (2) access to utilities, and (3) adequate turning room for trucks. In some instances, Hall was equivocal about whether the Uses had road access, but he testified that access could be obtained through easements. He said the same thing about access to utilities and turning room for trucks. Indeed, he explained that it was common for market participants to get easements. He pointed to the sales disclosure statement from the Skypoint Transit sale, where the parties indicated that the sale included easements or rights of way. He also explained that properties sometimes share utility connections. The property owners have to reach an agreement, but people still buy and sell the properties independently. *Hall testimony.*
74. Hall testified that he considered physical characteristics that affected the value of his Uses in his analyses. But he did not adjust any sale prices to account for the lack of access to

utilities, despite the fact that most of the profile sheets for his comparable properties indicated that they had utilities “at site,” “available at site,” or “to site.” He similarly did not explicitly adjust any sale prices to account for the lack of room for trucks to turn around. He did adjust some sale prices to account for their superior access/exposure. It appears, however, that he assumed at least some road access for the Uses he was appraising, and it does not appear that his adjustments included the cost of obtaining curb cuts or easements for the Uses with a lack of independent access. For example, he assumed access for Use 7 via a right-of-way from Supreme Court’s terminus. He did not adjust to account for the cost of getting an easement, but rather to account for the fact that the terminus of Supreme Court did not equate to exposure along a thoroughfare or collector street. *See Hall testimony; see also Resp’t Ex. 1 at 122, 228-34, 254-61, 280-86, 304-16, 329-35, 354-58, 364-68, 386-91, 394-400.*

75. To value the improvements, Hall employed a similar methodology as Mitchell. Like Mitchell, he used Marshall Valuation Service to estimate replacement costs and added an additional sum for indirect costs that Marshall did not include in its data, although he used 3% instead of the 2% Mitchell used. Unlike Mitchell, however, Hall included entrepreneurial incentive. Based on his “past analysis of proposed development projects, construction budgets provided by developers, and information reported by various industry sources,” Hall concluded that the most probable range would be 10% to 15% of total direct and indirect costs. Considering the unit costs applied to each Use and local market conditions, he believed that the low end of that range was appropriate, so he used 10%. *Resp’t Ex. 1 at 237-44, 264-70, 289-94, 313-18, 338-43, 370-74.*

76. Like Mitchell, Hall used the age-life method to estimate depreciation. But he departed from Mitchell with respect to whether his Uses suffered from functional or external obsolescence. In each instance, the narratives in Hall’s report indicated that he believed a deduction for functional obsolescence was unwarranted because the property’s improvements were consistent with market norms in construction quality, utility, size, and

design. In his depreciation calculation for Use 2’s buildings, however, he included a deduction for “Additional Functional Obsolescence” equal to 10% of their replacement cost new. Because asking rental rates and market vacancy rates were relatively stable and both population and employment were increasing, he found no external obsolescence. *Hall testimony; Resp’t Ex. 1 at 237-44, 264-70, 289-94, 313-18, 338-43, 370-74.*

77. The following tables summarize Hall’s conclusions under the cost approach for each use:

Use	1	2	3	4	5
Marshall Costs	\$6,107,761	\$5,755,566	\$1,332,833	\$908,098	\$939,582
Indirect Costs	+\$183,233	+\$172,667	+\$39,985	+27,243	+\$28,187
Ent. Incentive	<u>+\$629,099</u>	<u>+\$592,823</u>	<u>+\$137,282</u>	<u>+\$93,534</u>	<u>+\$96,777</u>
Total Repl.	\$6,920,093	\$6,521,057	\$1,510,100	\$1,028,875	\$1,064,546
Dep.	<u>-\$4,971,697</u>	<u>- \$4,720,882</u>	<u>-\$1,008,770</u>	<u>-\$717,118</u>	<u>-\$775,215</u>
Dep. Cost	\$1,950,000	\$1,800,000	\$500,000	\$310,000	\$290,000
Land	<u>\$380,000</u>	<u>\$780,000</u>	<u>\$110,000</u>	<u>\$120,000</u>	<u>\$170,000</u>
<b>Value</b>	<b>\$2,330,000</b>	<b>\$2,580,000</b>	<b>\$610,000</b>	<b>\$430,000</b>	<b>\$460,000</b>

Use	6	7	8	9
Marshall Costs		\$437,155		
Indirect Costs		+\$13,115		
Ent. Incentive		<u>+\$45,027</u>		
Total Repl.		\$495,297		
Dep		<u>-\$377,867</u>		
Dep. Cost		\$120,000		
Land	\$340,000	<u>\$220,000</u>	\$45,000	\$240,000
<b>Value</b>	<b>\$340,000</b>	<b>\$340,000</b>	<b>\$45,000</b>	<b>\$240,000</b>

*See Resp’t 1 at 237-44, 264-70, 289-94, 313-18, 338-43, 370-74.*

## ii. Sales-comparison approach

78. Hall also used the sales-comparison approach for the six Uses with improvements that he felt contributed value. He relied mostly on sales of industrial properties from various locations in Elkhart County. He also used sales from Etna Green and Warsaw in Kosciusko County. The sales were from October 2009 through December 2014. *Resp’t Ex. 1 at 245-52, 272-78, 295-300, 319-27, 344-52, 377-84.*

79. As with his land-sales analyses, Hall considered adjusting the sale prices for transactional issues as well as for relevant differences between his comparable properties and the properties he was appraising. For the same reasons he explained in his land analysis, Hall decided that no adjustments for differences in market conditions were necessary. *Hall testimony; Resp't Ex. 1 at 245-52, 272-78, 295-300, 319-27, 344-52, 377-84.*
80. He did adjust several sale prices for differences in location. He applied 1% per year to account for differences in age. While other adjustments explained most of the price differentials, Hall concluded that some adjustment for size differences was necessary. He also applied positive or negative adjustments of 5% to the sale prices of comparable properties that had significantly more or less building space than the Uses he was appraising. He adjusted for several comparable properties' inferior locations in smaller communities, for smaller site sizes, and for larger floor ratios. He adjusted another property's sale price for its larger site size and proximity to an interstate. *Hall testimony; Resp't Ex. 1 at 245-52, 272-78, 295-300, 319-27, 344-52, 377-84.*
81. Hall also adjusted several sale prices to account for differences in physical characteristics. For example, he adjusted all the sale prices in his analysis of Use 3 because of the superior construction quality and utility reflected in that building's 16 drive-in doors. He similarly adjusted sale prices downward to account for the inferior construction quality of the buildings on Uses 4 and 5, which did not have HVAC systems, had office space that was in poor condition, and in the case of Use 5, reflected "shell" construction. In other cases, such as Use 7, he found that the property he was appraising had superior construction, and he made upward adjustments. *Hall testimony; Resp't Ex. 1 at 295-300, 319-27, 344-52, 377-84.*
82. For Uses 1 and 2, Hall adjusted sale prices by 15% to account for differences in building configuration. For Use 1, which had an integral complex of attached building additions, he made positive adjustments to the sale prices for the comparable properties that had multi-

building configurations. The opposite was true for Use 2, which had six unconnected buildings—he made downward adjustments to the sale prices of the comparable properties with single buildings. *Hall testimony; Resp't Ex. 1 at 245-52, 272-78.*

83. Hall appears to have treated issues surrounding access to roads and utilities in the same way he treated those issues in his analyses of land sales. He did not adjust for lack of access to utilities. Nor did he adjust to account for the lack of fire suppression, even though his separate Uses did not have independent access to water for that purpose. The profile sheets for seven of his 16 comparable sales explicitly indicate that the buildings had sprinklers. Seven others are silent on that question. Given the amount of testimony about fire suppression issues, however, if those buildings lacked fire suppression, we infer that Hall would have said so. Profile sheets for two sales indicated that the properties had no sprinklers. *See Hall testimony; see also Resp't Ex. 1 at 245-52, 272-78, 295-300, 319-27, 344-52, 377-84, Addenda.*
84. Hall did adjust some sale prices to account for differences in visibility and frontage. But it appears that he assumed at least some road access for the Uses he was appraising, and it does not appear that he included the cost of obtaining curb cuts or easements in those adjustments. *See Hall testimony; see also Resp't Ex. 1 at 245-52, 272-78, 295-300, 319-27, 344-52, 377-84.*
85. In reconciling his data, Hall found that all the comparable sale prices required adjustment. He therefore gave the greatest weight to measures of central tendency. For the two Uses where Hall determined there was excess land, he further adjusted that reconciled amount by adding a value for the excess land, which he computed at the per-acre rate used in his land analysis. *Resp't Ex. 1 at 245-52, 272-78, 295-300, 319-27, 344-52, 377-84.*

### iii. Reconciliation

86. Finally, for the six uses with improvements, Hall reconciled his conclusions under the cost and sales-comparison approaches by giving similar weight to each approach. He explained that there was sufficient reliable data for each approach and that market participants understood and used both approaches. *See Hall testimony; Resp't Ex. 1 at 253, 279, 301, 328, 353, 385.*

87. The following table summarizes Hall's valuation opinions for each use:

Use	Land	Cost Approach	Sales-Comparison	Reconciled
1	\$380,000	\$2,330,000	\$2,340,000	\$2,335,000
2	\$780,000	\$2,580,000	\$2,200,000	\$2,390,000
3	\$110,000	\$610,000	\$550,000	\$580,000
4	\$120,000	\$430,000	\$480,000	\$455,000
5	\$170,000	\$460,000	\$400,000	\$430,000
6	\$340,000			\$340,000
7	\$220,000	\$340,000	\$320,000	\$330,000
8	\$45,000			\$45,000
9	\$240,000			\$240,000
<b>Total</b>				<b>\$7,145,000</b>

### 3. Gavin Fisher

88. Gavin Fisher also testified for the Assessor. He is a fee appraiser as well as a Level III certified assessor-appraiser. As a fee appraiser, he largely focuses on residential appraisals for condemnation litigation. He and his company, Equi-Val Tax Solutions, LLC, also consult with assessors on trending, ratio studies, and appeals. He consulted with the Assessor on Supreme's appeals. *Fisher testimony.*

89. Although Fisher did not appraise the Subject Property, he testified that the most common transactions in the Elkhart County industrial market were for facilities between 30,000 and 80,000 square feet. He agreed with Hall that the property would sell as multiple uses in the local market. *Fisher testimony.*

90. Fisher also testified that he thought a restricted use appraisal prepared by John Carnine showed the value of property owned by G2 and leased to Supreme Corp. as of June 17, 2010. The property at issue in that appraisal included (1) a parcel adjacent to Hall's Use 1 that was the subject of a previously settled appeal, (2) Hall's Use 1 (excluding two buildings that were on the leased land but that Supreme Corp. already owned), (3) Hall's Use 2, and (4) Hall's Use 4. The purpose of the appraisal was to determine the fair market value of the leasehold, which in turn was to set the price if Supreme Corp. exercised its option to purchase under the lease. *Fisher testimony; Resp't Exs. 19A-19D, 22.*
91. Carnine's objective was to develop an opinion of value for an "applicable NNN lease rate considering a 100% ownership interest in the leasehold estate." He purportedly developed the sales-comparison and income approaches, although he gave no information about any of his comparable properties, their sale prices, or any adjustments to the sale prices. He simply stated a value of \$3.9 million. His analysis under the income approach, through which he apparently determined an applicable lease rate of \$2.25/sq. ft., was similarly conclusory. G2 and Supreme Corp. used the appraisal to set an option price of \$3.9 million. In December 2012, Supreme paid \$3,568,246 to exercise its option. *Resp't Ex. 19E; Fisher testimony.*

### **C. Review Opinions**

92. Hall and Mitchell reviewed each other's appraisals, although they did not prepare written reports.

#### **1. Hall's review of Mitchell's appraisal**

93. Much of Hall's criticism of Mitchell's appraisal stemmed from their differing opinions on whether to view Supreme's property as a single economic unit or as multiple independent uses. In particular, Hall faulted Mitchell for not including Keystone RV in his market-segmentation analysis and for not looking to Supreme's subsequent listings of portions of



its campus as evidence that the campus was composed of independent properties. *Hall testimony.*

94. Even when viewing the property as a single economic unit, Hall believed that Mitchell should have considered portions of the property as excess land. Hall pointed to the .93-acre parcel that composed his Use 8, as well as to 20 acres to the south of Use 2. He was also concerned with the lack of bracketing in Mitchell's sales-comparison analysis. Supreme's campus had 120 acres. Yet Mitchell's largest land sale was just over 100 acres, and the largest site in his improved sales was 91 acres. Similarly, the land-to-building ratios for his sales were all less than the ratio for Supreme's campus. *Hall testimony; Pet'rs Ex. A at 49, 77.*
  
95. *The Appraisal of Real Estate* explains the importance of bracketing. An appraiser normally may get reliable results by bracketing the property being appraised between comparable properties that are superior and inferior to it. If the comparable properties are all superior or inferior, only an upper or lower limit of value is set. According to Hall, the failure to bracket might affect an appraisal, depending on how well the appraiser knows the sales he is using or can support his adjustments. In this case, the failure to find any land sales as large as Supreme's campus should have given Mitchell pause as to whether he was approaching his valuation methodology correctly. *Hall testimony; Resp't Ex. 26.*
  
96. Hall also found that Mitchell failed to support his functional obsolescence adjustment. First, the paired sales from which he calculated the adjustment did not bracket the number of buildings on Supreme's campus or the Subject Property. Second, Hall believed that Mitchell did not separately adjust for age differences in his paired-sales analysis. Hall was wrong on that point—Mitchell used his adjusted unit prices for each property, which included adjustments for age. Third, it appeared to Hall that Mitchell did not account for the relative sizes of the individual buildings. *Hall testimony; Resp't Ex. 26; see also Pet'rs Ex. A at 65, 77.*

97. In any case, Hall plotted the sale price and number of buildings for each property from Mitchell's analysis on a graph and calculated a trend line. For six of the seven sales, there is an upward trend in sale price as the number of buildings increases from one to a point between four and five buildings. There is a downward trend between that point and the sale price for the property with 13 buildings. Thus, only one data point suggests a downward trend; the rest of the data contradicts Mitchell's conclusions. For that reason, Hall had trouble finding that Mitchell's 30% adjustment was credible. And he believed that an adjustment of that magnitude was significant. *Hall testimony; Resp't Ex. 28.*
98. Hall also criticized what he viewed as the inconsistency between Mitchell applying an external obsolescence adjustment amounting to more than \$1 million in his analysis under the cost approach while using a market-conditions adjustment in his sales-comparison approach that reflected 3% annual appreciation. Similarly, given Mitchell's large adjustment for functional obsolescence under the cost approach, Hall would have expected him to adjust his comparable properties' sale prices to account for their superior utility. Finally, Hall believed that the 51% spread between Mitchell's adjusted sale prices should have undermined his confidence in his opinion and made him question both whether his adjustments were appropriate and whether he had misidentified the marketplace. *Hall testimony; see also Pet'rs Ex. A at 77.*

## **2. Mitchell's review of Hall's appraisal**

99. Like Hall, Mitchell highlighted the fundamental differences in the two appraisers' views on whether, under Indiana's market-value-in-use standard, the campus should be valued as a single entity or multiple independent uses. He also criticized several other aspects of Hall's appraisal. *Mitchell testimony.*
100. According to Mitchell, Hall made extraordinary assumptions that the Uses he identified were accessible from streets or through easements, had access to utilities, were outside of

floodplains, were buildable, and had adequate sprinkler support. But Hall did not inform the reader of those assumptions. *Mitchell testimony*.

101. Those assumptions were wrong. Mitchell explained that the curb cut to the manufacturing buildings that Hall separated into Uses 1 and 2 was completely within the boundaries of Use 2. Thus, Use 1 could be accessed only through that adjacent property. Mitchell testified that communities sometimes require minimum distances between curb cuts, and Hall did not analyze whether a new curb cut for Use 1 would even be allowed. In addition, part of the building complex on Use 1 runs up to the property line with Hall's Use 2. That would violate setback requirements. Indeed, Yoder testified that the proximity of the buildings between Uses 1 and 2 would render both properties useless as far as getting vehicles in and out between those two buildings. According to Yoder, buildings would have to be demolished to make room for access. Yoder, however, did not explain why that was not also a problem if the two Uses remained as a single property under common ownership. *Mitchell testimony; Yoder testimony*.

102. The primary land area in Use 2 currently gets water and sewer service from Use 1. If sold as a separate property, however, the county's zoning ordinance would require Use 2 to have its own water and sewer service. *Mitchell testimony; see also Yoder testimony; Pet'r Ex. C*.

103. Although Hall valued Use 2 as having 16.24 acres of excess land, most of it is in a floodplain. Hall did not analyze how that affected the land's value. Based on Mitchell's experience, land in a floodplain is worth less than other land. While a small area in the southwest corner of the 16.24-acre site might be outside the floodplain, there was another fundamental problem—the area has no street frontage. There is a ten-foot-wide sliver of frontage along a county road on the far southeast corner. But it is in a ditch. And a nearby bridge does not allow trucks. In any case, trucks need 70 feet of frontage on a primary

road. Also, an easement would be needed to get utilities to the site. *Mitchell testimony; Pet'rs Ex. G.*

104. Use 3 has frontage on Kercher Road. Like Use 1, however, it has no curb cut. The local zoning ordinance requires all truck movement and turning to occur onsite, and Use 3 does not have sufficient room for trucks to turn around. An easement would be required. In addition, the utilities to Use 3 come through Use 4, and the building on Use 3 encroaches on the property line between those two Uses. *Mitchell testimony; Resp't Ex. H.*

105. Moving to Use 5, Mitchell believed that Hall should have treated the “flagpole” section running along the east side as surplus land and valued it at a lower rate. Hall, by contrast, testified that the flagpole conceivably could have been used to assure that the parcel had its own point of access to Kercher Road. *Mitchell testimony; Hall testimony.*

106. Mitchell did not see the logic in Hall combining two parcels to form Use 6. Hall was trying to keep all the buildings within the same parcel lines, yet he treated the land as vacant because Supreme ultimately demolished the buildings. Hall also used the wrong amount of land area for the two parcels composing Use 6. All the parcels along the west side of Supreme Court were reconfigured around the time of the Skypoint Transit sale. One of the parcels that Hall included in Use 6 (11-24-376-023-15) had different dimensions in 2012 than it had following the reconfiguration. Hall used the reconfigured dimensions, which when combined with the second parcel composing his Use 6 totaled 9.168 acres. As the two parcels existed in 2012, however, they had a combined total of 10.569 acres. *See Mitchell testimony; Pet'rs Exs. I-K; Resp't Ex. 1 at 111, 125-26.*

107. As for Use 7, Mitchell noted that the northern portion is in a floodplain, and the portion that Hall treated as excess land has no road frontage. Instead, a buggy trail that does not allow vehicular access splits the area. The excess land similarly lacks access to utilities. Also, as he did with Use 6, Hall relied on current parcel configurations. The parcel that Hall

identified as Use 7—Parcel 21—had approximately .61 acres on March 1, 2012, yet Hall valued it as having seven acres. Finally, only about 10% of Hall’s Use 9 was outside a floodplain. *See Mitchell testimony; Resp’t Ex. 16.*

108. Mitchell acknowledged that the Newmark listing referenced road frontage and access to utilities, but he viewed that as a reference to the site as a whole, not necessarily the individual properties within the listing. If the site were split into different properties, as Hall proposed to do with his Uses 3 through 5, Uses 3 and 5 would have to get utilities from Use 4. Mitchell agreed that many of the access and utility issues could be solved through easements or other methods. But those things cost money and would need to be taken into account in valuing the Uses. Hall did not do that. *Mitchell testimony.*

109. Similarly, although Hall testified that building code violations would not be a problem because the buildings constitute legal, nonconforming developments, Mitchell believed that those issues still affect value. In his opinion, buyers view conforming properties differently than those with legal nonconformities, because they care about whether they would be able to rebuild on a site if the buildings burn down. *Mitchell testimony.*

#### **IV. Conclusions of Law**

##### **A. Burden of Proof**

110. 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: (1) where the assessment under appeal represents an increase of more than 5% over the prior year’s assessment, or (2) where it is above the level determined in a taxpayer’s successful appeal of the prior year’s assessment, regardless of the amount. I.C. § 6-1.1-15-17.2(a)-(b), (d).

111. There is no evidence that Supreme appealed the 2011 assessments for any of the parcels composing its campus. The campus’ assessment as a whole increased by only 4% between

2011 and 2012, going from \$8,722,400 to \$9,070,900. The Subject Property’s assessment increased by 12% during the same period, going from \$5,607,400 up to \$6,275,200. The assessments for two of Hall’s nine Uses—Uses 2 and 6—increased by more than 5% between 2011 and 2012. The rest either stayed the same or increased by less than 5%. Similarly, five individual parcels from the Subject Property had their assessments increase by more than 5%, while the rest either stayed the same or increased by less than 5%. *See Joint Ex. A.*

112. Thus, we cannot separate the question of who has the burden of proof from the fundamental valuation question posed by the appraisers: should Supreme’s property be valued as a single economic unit or as multiple, independent uses? To answer that question, we start with some background on our state’s valuation standard for property assessment—“true tax value.”

## **B. True Tax Value**

113. True tax value is determined under the rules of the Department of Local Government Finance (“DLGF”). I.C. § 6-1.1-31-6(f). It does not mean “fair market value” or “the value of the property to the user.” I.C. § 6-1.1-31-6(c), (e); I.C. § 6-1.1-31-5(a). The DLGF defines “true tax value” as “market value-in-use,” which it in turn defines as “[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” 2011 REAL PROPERTY ASSESSMENT MANUAL 2.

114. 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). A valuation of an improved property does not reflect true tax value if the purportedly comparable sales “have a different market or submarket than the current use” of the property under appeal based on “a market segmentation analysis.” I.C. § 6-1.1-31-

6(d). Market segmentation analyses “must be conducted in conformity with generally accepted appraisal principles” and are not limited to the categories of markets and submarkets laid out in the DLGF’s rules or guidance materials. *Id.*

**C. Based on the parcels’ physical integration, valuing the campus as a single unit is more reliable than valuing it as independent properties without accounting for the substantial costs of separation.**

115. Both parties point to the Manual’s references to “the owner” or a “similar user” and defend their experts’ analyses of the appropriate market segment on those grounds. Each side accuses the other of focusing on one to the exclusion of the other. Supreme says that characterizing the Subject Property as nine separate wholes ignores the owner, Supreme, who uses the property as part of an integrated industrial operation. By contrast, the Assessor argues that Supreme ignores similar users because smaller properties in the area that are comparable to the parcels composing the Subject Property frequently trade for manufacturing and other industrial uses.

116. We find several factors relevant. First, Supreme’s campus conceivably could have been sold either way, although we agree with Hall that it was more marketable as smaller, independent properties. That does not necessarily mean that the parcels would be grouped in the manner that Hall suggests. Indeed, Supreme actually marketed parts of the north campus as independent properties that did not exactly correspond to Hall’s Uses.

117. That leads us to a second factor—Supreme itself did not necessarily view the campus as an indivisible unit. Not only did it market, and in the case of the Skypoint transaction, sell parts of the north campus as independent properties, it did not even treat the campus as a single unit in filing and prosecuting its appeals. Supreme appealed only 15 of the 22 parcels and settled three of those appeals separately through the informal process at the local level.

118. Given those two factors, valuing the campus as individual parcels or as various smaller groupings of parcels might more closely reflect true tax value than would treating the campus as a single economic unit. The mere fact that Supreme used the whole campus for its business operations as of the assessment date does not control. True tax value does not mean the value of the property to its user. I.C. § 6-1.1-31-6(e). And as the Assessor points out, the reference to an “owner” or a “similar user” in the DLGF’s definition of true tax value contemplates more than simply an entity with the same business plan as the taxpayer. Other users of industrial property, including Forest River, which manufactures similar products, buy and sell smaller properties. There was nothing about manufacturing or assembling bodies for trucks, trolleys, and buses that inherently required Supreme to build and use the campus in the way it did, as shown by its decision to consolidate its operations shortly after the assessment date.
119. But those two factors are not dispositive. There is a third, more important factor to consider: the parcels were physically integrated to a substantial degree, particularly within the north and south campuses. In some instances, buildings either encroached on or invaded setbacks from other parcels. They shared road access and access to utilities and fire suppression. And there would have been significant costs involved in separating the campus into smaller, independent properties.
120. It is this last point—the physical integration and accompanying costs of separating the campus into separate properties—that persuades us the cost approach from Mitchell’s second appraisal, with some adjustment, is more probative than Hall’s valuation of the Subject Property as nine independent Uses.

**1. Hall did not account for the substantial costs and other issues involved in separating the campus into independent properties.**

121. Hall’s appraisal ignores the important ways in which the parcels were physically integrated on the assessment date. Although the campus as a whole had adequate road access, fire



suppression, and access to utilities, many of the independent Uses or areas of excess land that Hall identified did not. Uses 1 and 3 lacked curb cuts, and Hall's report did not show that he investigated whether the appropriate authorities would allow new curb cuts for those Uses. While the 16.24-acre portion of Use 2 that Hall characterized as excess land had road access, the road did not support trucks, which is a significant issue for an industrial property. Similarly, Uses 2 and 3 got their utilities from other parcels. And there were only four points of access to fire suppression for the entire campus.

122. The campus' physical configuration created other issues that would have needed to be addressed when splitting it into independent Uses. Selling the parcels separately would have created setback violations, making the Uses nonconforming under local ordinances. Similarly, a building from Use 3 would actually have encroached on Use 4. And if Supreme sold Use 3 independently, there would not have been enough room for trucks to turn around.

123. Hall shrugged off most of those concerns. He testified that nonconformities would be "grandfathered," and that older industrial properties typically have those issues. But we agree with Mitchell that buyers would pay less for properties with some types of legal nonconformities than they would pay for properties without those issues, particularly where the nonconformities would affect the ability to rebuild or substantially renovate a building in the event of a fire or similar event. That said, it is unclear how much less buyers would pay. It is also unclear whether Hall's comparable sales had similar nonconformities.

124. Hall similarly claimed that most of the other issues could be addressed through easements. As Mitchell and others pointed out, however, there is a cost to creating easements. In many cases, the contemplated easements would have burdened other Uses that Hall was valuing. Presumably, that would affect what buyers would pay for the burdened properties. Hall failed to explicitly account for either of those things in his sales-comparison analyses of vacant land or improved properties, despite the fact that his comparable properties did not

have similar problems concerning access to roads or utilities, or appropriate turning radii for trucks. The same is largely true for the lack of independent access to water for fire suppression.

125. We have little evidence about the cost of obtaining easements for road access. At a minimum, we would expect Hall to have investigated that question. There is nothing to show he did so.
126. We do have evidence showing there were significant costs associated with providing utilities and fire suppression for the various independent Uses. Yoder testified without dispute that Supreme had either spent or obligated itself to spend \$203,000 to prepare 2600 Supreme Court for leasing. That property largely corresponds to Hall's Use 5. At least part of the \$203,000 involved costs associated with switching the fire suppression system. Supreme also incurred unspecified costs for making similar changes to 2500 Supreme Court, which largely corresponds to Hall's Use 4. And Supreme had an "all-in" budget of \$267,000 for reasonably separating most of the remaining parts of the north campus so it could sell individual parcels. Costs associated with fire suppression and utility access were the most significant part of that budget.
127. There are other issues with Hall's appraisal. Although Hall recognized the possibility that part of what he characterized as excess land in Use 2 was in a floodplain, he did not adjust for that risk in analyzing his comparable land sales. He instead pointed to his conclusion that there was sufficient area outside the floodplain to support a building. But the land periodically flooded, including a massive flood in 2006. We find it difficult to believe that potential buyers would ignore that. We do not mean to overstate this concern, however. Mitchell did not adjust any of his comparable sales to account for flood issues either.
128. In addition, Hall's Uses 6 and 7 do not correspond to any of the parcels under appeal. They instead reflect subsequent reconfigurations and combinations of parcels. Hall did not

attempt to translate his valuations to the parcels as they existed in 2012, although that problem is not as significant for Use 6, given that he simply valued it as vacant land and his per-acre rate could be applied to the parcel's 2012 dimensions.

129. Most of the concerns we have identified also affected Hall's analyses under the cost approach. For example, Hall did not address the lack of road access in analyzing comparable land sales. Nor did he address the lack of fire suppression or utilities either in analyzing those land sales or as obsolescence in determining the depreciation of improvements. Thus, while the parcels composing Supreme's campus might have been more likely to be marketed and sold as smaller, separate units, Hall has not offered reliable evidence to show the value of those units.

## **2. Carnine's appraisal and Fisher's testimony also lack probative value**

130. The Assessor's other valuation evidence—Carnine's appraisal of a property that included portions of the Subject Property and Fisher's testimony about that appraisal and about Supreme Corporation's exercise of its option to purchase the appraised property—similarly lacks probative weight. Carnine valued the leasehold estate, rather than the fee simple interest, in the property he was appraising. And his opinions were entirely conclusory. In any case, Carnine's appraisal and Supreme Corporation's purchase encompassed parcels in addition to those that are on appeal. Neither Carnine nor Fisher attempted to allocate the appraised value between those groups.

## **D. Mitchell's Appraisal**

### **1. Mitchell's sales-comparison approach is unreliable because his sales are too dissimilar to Supreme's campus.**

131. That leaves Mitchell's appraisal, to which we now turn. We begin with his sales-comparison analysis—the analysis to which he gave the greatest weight in his reconciled conclusion. Because Mitchell viewed the campus as a single unit, he believed that it competed in a much larger geographic market area than just the industrial area north of

Goshen. Even then, he found no sales of industrial properties configured anything like Supreme's campus, even though he believed that its 30-building layout greatly affected its functional utility. Only one of Mitchell's purportedly comparable properties had more than five buildings. Similarly, only one had even close to the same land-to-building ratio as Supreme's campus. None was bisected by a road.

132. These disparities stemmed entirely from Mitchell's view of the campus' market as buyers of industrial facilities between 300,000 and 900,000 square feet, which in turn stemmed from his assignment to value the campus as a single unit. But even if that is an appropriate way to value the property, it does not follow that every valuation approach is necessarily appropriate. Given the clear lack of comparability between Supreme's campus and Mitchell's comparable sales, his sales-comparison analysis lacks probative value.

**2. Mitchell's cost-approach analysis, minus his unsupported adjustment for external obsolescence, is the most persuasive evidence of value for Supreme's campus**

133. Mitchell also applied the cost approach. The Assessor did not question Mitchell's estimate of the improvements' replacement cost, aside from his decision not to include entrepreneurial incentive. Nor did the Assessor question Mitchell's estimate of physical deterioration. But she did dispute Mitchell's land value, both because Mitchell appraised the site as a single unit rather than as smaller separate units, and because even within that general approach, he did not separately value what Hall characterized as excess land. The Assessor similarly criticized Mitchell's quantification of functional obsolescence and his decision to include an adjustment for external obsolescence.

134. We begin with Mitchell's decision to value the land as a single site. That is largely a function of the campus' physical integration. As explained above, we find Mitchell's approach of valuing the campus as a single unit more persuasive than Hall's approach of valuing its components independently without accounting for the substantial costs of disentangling those components. That said, there was far less physical integration between

the north and south campuses than there was within those two sections. Thus, the site value would more appropriately be divided between the north and south campuses. Because even Mitchell acknowledged there is an inverse relationship between size and value per unit, splitting the site into two sections arguably might lead to higher per-unit values than the ones he chose. But each section is still very large. Notwithstanding Hall's discussion about the importance of bracketing, we are persuaded that there is likely little difference in per-unit values when dealing with incremental size differences between large tracts. Nothing in the record suggests that would be the case.

135. There is a little more merit to Hall's claim that Mitchell should have valued at least some parts of the campus as excess land. The campus had a very high land-to-building ratio, and at least part of the land may have been unnecessary to support the existing improvements. Whether those parts feasibly could have been sold for independent industrial uses, and whether the sale prices would have significantly exceeded the per-unit price that Mitchell estimated for the site as a whole, is less clear. At least some of the areas that Hall himself valued as excess land—the northern part of Hall's Use 7 and the 16.24-acre portion of Use 2—would have had access and related issues if sold independently. While either Supreme or the buyers might have addressed those issues through easements or other means, we have no evidence as to what the associated costs would have been. Similarly, some of the area Hall characterized as excess land appears to be within a flood zone, and some of it periodically flooded. Those facts might not have precluded selling the land for independent industrial uses; but they likely would have depressed its value.
136. There is no indication that another area of the Campus that Hall characterized as excess land—his Use 8—had similar issues with flooding. On the other hand, Use 8 is only .93 acres. Hall also pointed to an approximately 20-acre rectangular area at the far southwest part of the campus, south of his Use 2. It is unclear whether any of that area was in a floodplain or was affected by previous floods. And Hall offered little analysis about the suitability of the 20-acre area for development, other than to say that he believed it had

road frontage. Under those circumstances, we find that Mitchell’s decision not to value that area as excess land marginally detracts from the reliability of his land valuation.

137. Moving on to Mitchell’s valuation of the improvements, we begin with his decision to exclude entrepreneurial incentive. Entrepreneurial incentive is a forward-looking “market-derived figure that represents the amount an entrepreneur expects to receive as repayment for his expenditure (direct and indirect costs) and as compensation for providing coordination and expertise and assuming the risks associated with the development of a project.” *American Cyanamid Co. v. Wayne Twp.*, 17 N.J. Tax 542, 560-61 (1998) (quoting THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 347-348 (11th ed.)). Entrepreneurial profit is a backward-looking assessment of whether an entrepreneur actually realized profit. *See id.* In any case, entrepreneurship “represents a legitimate cost of development and should be included in the estimate of development cost.” *Id.*
138. Appraisers in appeals before us often disagree about whether entrepreneurial incentive/profit should be included in a given appraisal assignment, with assessors’ experts typically arguing that it should be included and taxpayers’ experts typically arguing that it should be excluded. These appeals are no different. Hall included an amount equal to 10% of direct and indirect costs based on vague references to past analyses of proposed projects, construction budgets from developers, and information from “various industry sources.” Mitchell, by contrast, excluded entrepreneurial incentive because of what he described as the near impossibility of estimating it in markets where properties are not built in order to realize a profit on the property, such as the market for owner-occupied properties like Supreme’s campus.
139. We are not entirely satisfied with Mitchell’s explanation, but we agree that any estimate of entrepreneurial incentive must be supported by market information. We give little credence to Hall’s quantification of 10%, which was notably short on details. Thus, while

Mitchell's exclusion of entrepreneurial incentive gives us pause, we do not believe that it significantly affected the reliability of his estimate of replacement costs.

140. Hall pointedly criticized Mitchell's adjustment for functional obsolescence. Functional obsolescence is a loss in value caused by inutility within an improvement. 2011 REAL PROPERTY ASSESSMENT GUIDELINES, App. F at 4. We have no qualms with Mitchell's conclusion that the multi-building configuration of the campus created functional obsolescence.
141. We do have some concerns about how Mitchell quantified that obsolescence. As Hall correctly observed, Mitchell based his calculation of 2%-to-3% per building on a single data point. Given that most of Mitchell's data actually indicated a trend of increasing sale prices for properties with between one and five buildings, we also give little weight to his vague claim that "brokers" from those transactions attributed a 20%-to-40% discount for multi-building configurations. Similarly, we give little weight to his claim that two brokers from the property's market area estimated discounts between 30% and 50% for a 30-building configuration. It is difficult to imagine what they were basing their opinions on, given that Mitchell could not find any sales from that market that had even half that number of buildings.
142. Were Mitchell's problematic calculation all we had, we might completely discount it. But Hall also recognized that multi-building configurations detract from functional utility. He adjusted various sale prices in his sales-comparison analyses by 15% to account for that loss of utility. He also made a functional obsolescence adjustment of 10% in his cost approach analysis for Use 2, which we infer he based on its multi-building configuration. Thus, Hall's own appraisal generally supports an adjustment of the magnitude that Mitchell made. While Mitchell quantified his adjustment at 30%, he applied it to the improvements' costs after accounting for substantial physical depreciation. The adjustment actually amounted to only about 12% of the total replacement costs.

143. We are more skeptical of Mitchell’s adjustment for external obsolescence. External obsolescence adjusts for losses in value caused by factors outside the property. *Higbee Co. v. Cuyahoga Cnty. Bd. of Review*, 839 N.E.2d 385, 392 (Ohio 2006) (citing THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE, 412 (12<sup>th</sup> ed.); see also 2011 GUIDELINES, App. F at 4 (“External Obsolescence is caused by an influence outside the property’s boundaries that has a negative influence on its value.”). Economic or locational factors may cause external obsolescence, and it may be temporary or permanent. *Higbee*, 839 N.E.2d at 392 (citing THE APPRAISAL OF REAL ESTATE at 412). *The Appraisal of Real Estate* sets forth several methods for quantifying external obsolescence: “(1) allocation of market-extracted depreciation, (2) market data analysis, and (3) capitalization of income loss.” *Id.* at 332.
144. Mitchell found external obsolescence based on economic weakness from the recession. He focused mainly on factors that pointed to oversupply of, and limited demand for, industrial space as well as to depressed rental rates. But he recognized that those things were improving in 2012 looking forward. Thus, if not absent entirely by 2012, the external obsolescence was temporary. Yet Mitchell appeared to treat the obsolescence as permanent. We cannot tell for sure, because he did not follow any of the methods recognized in *The Appraisal of Real Estate* for quantifying it. Nor did he offer any explanation from which we may conclude that his methodology nonetheless conformed to generally accepted appraisal principles.
145. Thus, we find that the following analysis, which mirrors Mitchell’s cost-approach estimate for Supreme’s campus as a whole minus his adjustment for external obsolescence, is the most probative valuation evidence offered by the parties:



Replacement Cost New	\$22,707,780
<u>Accrued Depreciation</u>	
Physical Deterioration	-\$13,406,925
Functional Obsolescence	<u>-\$2,790,256</u>
Depreciated Cost of Improvements	\$6,510,599
Estimated Land Value	<u>\$1,810,000</u>
<b>Total Value</b>	\$8,320,600 (rounded)

**3. Mitchell’s method for estimating the Subject Property’s contributory value is arbitrary.**

146. Although Mitchell also estimated the Subject Property’s contributory value, his methodology was arbitrary. By Mitchell’s own description, those 12 parcels are not a separate whole. He simply grouped them together as a single component of the larger whole (the campus), because those were the parcels Supreme chose to appeal and prosecute through hearing. Those parcels could just as easily be viewed as 12 separate components. The difference is significant. Mitchell measured contributory value largely through the sales-comparison approach, and he admitted the inverse relationship between size and per-unit price. If he had used individual parcels (or smaller groupings of parcels than the 12-parcel Subject Property), the building and site sizes would have been drastically smaller and the per-unit values would have been higher, although the values may have required adjustment to reflect that the whole does not equal the sum of the parts.

147. We therefore give no weight to Mitchell’s estimate of the Subject Property’s contributory value. Instead, we order that the assessments for the parcels composing the Subject Property must be changed so that the total assessment for Supreme’s 22-parcel campus equals \$8,320,600.

**FINAL DETERMINATION**

148. While the parties and their appraisers made sweeping arguments about the meaning of true tax value, we base our decision on more narrow grounds: how best to value a group of parcels that might be more marketable as smaller, independent properties than as a single

economic unit, but that would require significant costs to physically separate. Where, as here, we do not have reliable evidence of the value of the smaller, separate properties that accounts for the costs of separation, we believe the best evidence of value is Mitchell's cost approach, after eliminating his unsupported adjustment for external obsolescence. We therefore find that the assessments for the parcels composing the Subject Property must be changed so that the total assessment for Supreme's 22-parcel campus equals \$8,320,600.

---

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 A

<b>Petition Number</b>	<b>Petitioner Name</b>	<b>Parcel Number</b>
20-015-12-1-3-00091	G 2 LTD A TX LTD PTR	11-24-376-006-015
20-015-12-1-3-00093	G 2 LTD A TX LTD PTR	11-25-201-008-015
20-015-12-1-3-00094	Supreme Properties North, Inc.	11-24-376-008-015
20-015-12-1-3-00095	Supreme Properties North, Inc.	11-24-376-023-015
20-015-12-1-3-00096	Supreme Properties North, Inc.	11-25-201-002-015
20-015-12-1-3-00098	Supreme Corporation Inc.	11-25-127-002-015
20-015-12-1-3-00099	Supreme Properties North, Inc.	11-24-376-002-015
20-015-12-1-3-00100	Supreme Properties North, Inc.	11-24-376-021-015
20-015-12-1-3-00101	Supreme Properties North, Inc.	11-24-376-011-015
20-015-12-1-3-00103	G 2 LTD A TX LTD PTR	11-25-201-010-015
20-015-12-1-3-00104	G 2 LTD A TX LTD PTR	11-25-201-012-015
20-015-12-1-3-00105	Supreme Properties North, Inc.	11-24-326-006-015