

REPRESENTATIVE FOR PETITIONER:  
Michael Duff, Tax Representative

REPRESENTATIVE FOR RESPONDENT:  
F. John Rogers, Attorney

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Parker-Hannifin Corporation,	)	Petition Nos.: 02-047-10-1-3-00002
	)	02-047-11-1-3-00001
	)	02-041-10-1-3-00001
Petitioner,	)	02-041-11-1-3-00002
	)	
	)	Parcel Nos.: 02-14-06-301-002.000-047
v.	)	02-13-01-476-001.000-041
	)	
	)	County: Allen
Allen County Assessor,	)	
	)	Townships: Jefferson and Adams
	)	
Respondent.	)	Assessment Years: 2010 and 2011

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Appeal from the Final Determinations of the  
Allen County Property Tax Assessment Board of Appeals

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**September 5, 2012**

**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:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Introduction

1. In this assessment appeal, Parker-Hannifin Corporation offered an appraisal report prepared by a certified appraiser attempting to prove that its properties' assessments were too high for the 2010 and 2011 assessment years. While the Assessor attempted to both impeach and rebut the appraisal and provided competing evidence, the Board finds Parker-Hannifin's evidence more persuasive.

### Procedural History

2. Tax Representative Michael Duff, on behalf of Parker-Hannifin, filed two Form 130 petitions with the Allen County Assessor contesting the Petitioner's parcels' March 1, 2010 and March 1, 2011 assessments.<sup>1</sup> The Allen County Property Tax Assessment Board of Appeals ("PTABOA") issued four separate determinations—dated January 7, 2011, for the 2010 appeals, and dated February 24, 2012, for the 2011 appeals—denying Parker-Hannifin the relief that it requested. Mr. Duff then timely filed four Form 131 petitions with the Board. The Board has jurisdiction over Parker-Hannifin's appeals under Indiana Code §§ 6-1.1-1-15 and 6-1.5-4-1.
3. On June 7, 2012, the Board's administrative law judge, Joseph Stanford ("ALJ"), held a consolidated hearing on Parker-Hannifin's petitions. Neither the Board nor the ALJ inspected the parcels.

### Hearing Facts and Other Matters of Record

4. The following people were sworn in and testified:  
For Parker-Hannifin: Michael Duff, Tax Representative  
Brent Overholt, MAI  
Steve Moore, Facilities Manager, Parker-Hannifin  
  
For the Assessor: Jill Weikart, Commercial Appraisal Deputy

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<sup>1</sup> Mr. Duff listed both parcels on one Form 130 petition for each year in question.

5. Parker-Hannifin submitted the following exhibits:

- Petitioner Exhibit 1: Appraisal prepared by Brent Overholt
- Petitioner Exhibit 2: Form 130 petition for March 1, 2010
- Petitioner Exhibit 3: Form 131 petition for March 1, 2010
- Petitioner Exhibit 4: Form 130 petition for March 1, 2011
- Petitioner Exhibit 5: Form 131 petition for March 1, 2011
- Petitioner Exhibit 6: Introduction to the 2002 Real Property Assessment Manual, pages 2 through 7.
- Petitioner Exhibit 7: Pages 400-404 from *The Appraisal of Real Estate, Eleventh Edition*

6. The Assessor submitted the following exhibits:<sup>2</sup>

- Respondent Exhibit R-2: Position statement
- Respondent Exhibit R-3: Photograph of Parcel 02-13-01-476-001.000-041
- Respondent Exhibit R-4: Aerial photograph of the subject parcels
- Respondent Exhibit R-5: Property record cards for the subject parcels
- Respondent Exhibit R-6: Sales-comparison approach calculations
- Respondent Exhibit R-7: Sales analysis excluding the land values
- Respondent Exhibit R-8: Photographs and property record cards for 3102 Brooklyn Avenue; 6932 Gettysburg Pike; 3925 Airport Expressway—Parcel 02-17-05-226-002.000-071; 3925 Airport Expressway—Parcel 02-17-05-226-003.000-071; and 4422 Airport Expressway
- Respondent Exhibit R-9: Summary of findings for comparable sales used in Overholt's appraisal
- Respondent Exhibit R-10: List of properties and respective property record cards for the comparable sales used in the Petitioner's appraisal: 4422 Airport Expressway; 1890 West Riverfork Drive; 7625 Vicksburg Pike; 8520 Bluffton Road; 3925 Airport Expressway—Parcel 02-17-05-226-002.000-071; 3925 Airport Expressway—Parcel 02-17-05-226-003.000-071; 4868 East Park 30 Drive; 1015 West 15<sup>th</sup> Street; 2100 Summit Street; 2808 Adams Center Road; 6930 Gettysburg Pike; 6932 Gettysburg Pike; 2501 East 850 North; and 3102 Brooklyn Avenue
- Respondent Exhibit R-11: The Assessor's income approach calculation
- Respondent Exhibit R-12: Supporting market survey for the Assessor's income calculation

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<sup>2</sup> Ms. Weikart indicated that Respondent Exhibit R-1 was a listing of the exhibits, but the Assessor provided no such document at the hearing.

Respondent Exhibit R-13: Indiana Code § 6-1.1-4-4.5 and Page 13 of the 2002 Real Property Assessment Manual

Respondent Exhibit R-14: Pages 100-101 of *Property Assessment Valuation*

Respondent Exhibit R-15: May 5, 2010, appraisal of Peg Perego USA, Inc., prepared by Brent Overholt

7. The Board recognizes the following additional items as part of the record of proceedings:
  - Board Exhibit A: Form 131 petitions
  - Board Exhibit B: Hearing notices
  - Board Exhibit C: Hearing sign-in sheet
  - Board Exhibit D: Notice of Appearance for F. John Rogers
  
8. The two parcels together form one property and one economic unit—a 43.509-acre site improved with a 177,900 square-foot manufacturing facility, located in New Haven, Indiana. It is separated into two parcels because the line dividing Jefferson Township and Adams Township runs directly through the property. Parcel 02-14-06-301-002.000-047 is located at 10900 US 24 in Jefferson Township, and 22% of the property's value is allocated to this parcel. Parcel 02-13-01-476-001.000-041 is located at 10801 Rose Avenue in Adams Township, and the remaining 78% of the property's value is allocated to this parcel. Both parties view the parcels collectively as one property; therefore, Board herein refers to both parcels together as “the subject property.”
  
9. For March 1, 2010, the PTABOA determined the values of the subject property to be \$435,100 for the land and \$3,719,100 for the improvements, for a total assessed value of \$4,154,200.
  
10. For March 1, 2011, the PTABOA determined the values of the subject property to be \$435,100 for the land and \$3,808,900 for the improvements, for a total assessed value of \$4,244,000.
  
11. Parker-Hannifin requests a total assessment of \$3,068,000 for both 2010 and 2011.

### **Administrative Review and the Parties' Burdens**

12. Generally, a taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
13. The taxpayer must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
14. If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to rebut or impeach the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

### **Findings of Fact**

15. Mr. Duff, Parker-Hannifin's representative, argues that the subject property's assessments for 2010 and 2011 are too high in light of an appraisal prepared by Brent Overholt. *Pet'r Ex. 1*. Mr. Overholt is a certified general appraiser, and has been appraising since 1982. *Overholt testimony*. He has been a member of the Appraisal Institute (“MAI”) since 2002. *Id.* He is also a licensed broker and negotiates the sales of properties. *Id.* Through his appraisal, Mr. Overholt concluded that the subject property's value for both March 1, 2010, and March 1, 2011, was \$3,068,000. *Id., Pet'r Ex. 1 at 70*.
16. Mr. Overholt completed his appraisal in compliance with the Uniform Standards of Professional Appraisal Practice (“USPAP”). *Id.; Pet'r Ex. 1 at 13*. In considering the three approaches to value, Mr. Overholt testified that he did not consider or develop the cost approach, because “the building is older, [so] the market doesn't really rely on cost,

but more what the building would sell for or could be rented for.” *Overholt testimony*. Mr. Overholt therefore developed the sales-comparison and income approaches to value, and he placed most of his emphasis on the sales-comparison approach. *Id.*

17. In his sales-comparison analysis, Mr. Overholt selected twelve comparable properties. *Id.*; *Pet’r Ex. 1 at 45-47*. Because properties similar in size to the subject property do not frequently sell in Allen County, and the property’s “market area” is better described as “northeast Indiana,” Mr. Overholt testified that he expanded his search for comparable properties beyond Allen County and based his selections mostly on size. *Overholt testimony*. Mr. Overholt further testified that he used more comparable properties than most appraisers, which he believes adds more credibility to his valuation opinion. According to Mr. Overholt:

- “Comparable 1” is located at 4422 Dalman Road in Fort Wayne, and is an older leased-fee sale. Mr. Overholt testified that he selected it based on size and location.
- “Comparable 2” is located at 1890 Riverfork Drive West in Huntington, and is a property that Mr. Overholt has appraised. It was a “low sale” bought out of foreclosure, but it was a valid sale. According to Mr. Overholt, in attempting to sell a property, owners have to compete with this type of pricing in the marketplace. But Mr. Overholt concedes that this property is “probably worth twice what it sold for.”
- “Comparable 3” is located at 7625 Vicksburg Pike in Fort Wayne. Mr. Overholt selected it based on size and the date of the sale. He noted that the sale appeared to be “less than arm’s-length,” but he testified that he made a 15% adjustment for “conditions of sale.”
- “Comparable 4” is located at 8520 Bluffton Road in Fort Wayne. Mr. Overholt selected it based on size and the capitalization rate.
- “Comparable 5” is located at 3925 Airport Expressway in Fort Wayne. It sold for the asking price, \$2.7 million, because it had a tenant that was producing income.
- “Comparable 6” is located at 4868 East Park 30 Drive in Columbia City. It is very similar in size to the subject property, and was a valid sale.

- “Comparable 7” is located at 1015 West 15<sup>th</sup> Street in Auburn. Mr. Overholt selected it based on the capitalization rate.
- “Comparable 8” is located at 2100 Summit Street in New Haven. It was a sale-leaseback, but it was a valid sale because that is how investors buy property.
- “Comparable 9” is located at 2208 Adams Center Road in Fort Wayne. Mr. Overholt sold this property himself; he represented both the buyer and the seller. It was a valid sale.
- “Comparable 10” is located at 6930 Gettysburg Pike in Fort Wayne. Mr. Overholt selected it based on size and similar use features.
- “Comparable 11” is located at 2501 East County Road 850 North in Ossian. It is of similar size and it is a valid sale. There was also a quick re-sale of this property.
- “Comparable 12” is located at 3102 Brooklyn Avenue in Fort Wayne. The company Mr. Overholt works for sold this property. Mr. Overholt appraised it and reviewed all the leases. It was a valid sale.

Mr. Overholt testified that he constantly monitors his time adjustment. *Overholt testimony*. He also adjusted for the comparable properties’ location. *Id.* According to Mr. Overholt, the contribution of the land value is a big part of that. *Id.* Mr. Overholt’s estimated market value of the subject property using the sales-comparison approach was \$3,068,775, which he rounded to \$3,068,000, or \$17.25 per square foot. *Pet’r Ex. 1 at 51.*

18. Mr. Overholt also developed the income-capitalization approach to value the Petitioner’s property. While he did little at the hearing to explain his calculations using this approach, it appears that Mr. Overholt used the comparable properties discussed above to derive a market rent of \$2.76 per square foot. *Pet’r Ex. 1 at 51-59.* He estimated vacancy and collection loss at 10%, and based on the building’s area he calculated an effective gross income of \$441,904. *Id. at 59.* He then consulted RealtyRates.com to derive—or at least test the reasonableness of—his estimates for expenses, replacement

reserves, and his capitalization rate. *Id. at 59-65.* After estimating the net operating income at \$350,634 and settling on a 12% capitalization rate, Mr. Overholt estimated the value of the Petitioner's property to be \$2,922,000 using the income-capitalization approach. *Id. at 69.*

19. Mr. Overholt's final value conclusion of \$3,068,000 is applicable to both assessment years in question. *Overholt testimony.* While his appraisal specifically indicates a March 1, 2010, effective date, Mr. Overholt testified that there would have been little change in the property's value between that date and March 1, 2011. *Id.*
20. But the Assessor contends that Mr. Overholt's appraisal fails to provide a credible estimate of the subject property's value. First, the Assessor challenged the comparable sales that Mr. Overholt used. *Weikart argument.* According to Ms. Weikart, many of the properties were purchased out of foreclosure or contain "creative financing" such as sale-leaseback provisions. *Id.* For ratio study purposes, those types of sales are invalid. *Weikart testimony.* Ms. Weikart argues that only Comparable 1, Comparable 5, and Comparable 12 are valid, arm's-length transactions. *Weikart argument; Resp't Ex. R-9.* Mr. Duff and Mr. Overholt both argue, however, that ratio studies and appraisals have different purposes, and there are fewer restrictions on sales that can be used in appraisals. *Duff and Overholt argument.*
21. The Assessor also offered another appraisal prepared by Mr. Overholt in an attempt to impeach the subject property's appraisal. *Resp't Ex. R-15.* Mr. Overholt completed an appraisal for Peg Perego USA, dated May 5, 2010. *Id.* In that appraisal, he used many of the same comparables as in the subject property's appraisal, but the adjusted values are different. *Rogers, Weikart argument.* Mr. Duff and Mr. Overholt explained, however, that the comparable sales are adjusted to the subject properties; therefore, the indicated values are that of the subject property, not the comparable properties. *Duff and Overholt argument.*



22. Ms. Weikart, on behalf of the Assessor, also offered her own sales-comparison and income-capitalization analyses. In her sales-comparison approach, Ms. Weikart analyzed four comparable property sales. *Resp't Ex. R-6*. Three of those were properties that Mr. Overholt also used in his appraisal—Comparable 1, Comparable 5, and Comparable 12—and the fourth property is located at 6932 Gettysburg Pike in Fort Wayne. *Weikart testimony; Weikart testimony*. All four properties are located in Allen County, and all four sales were valid, arm's-length transactions. *Weikart testimony*. The comparable properties are similar to the subject property in market value-in-use, age, wall height, construction type, size, and proximity to a major thoroughfare. *Id.* According to Ms. Weikart, she made adjustments to the sale prices for differences in the date of the sale and the age, condition, and size of the comparable properties. *Id.; Resp't Ex. R-6*. From those adjusted sale prices, Ms. Weikart calculated a median sale price of \$28.12 per square foot, which is higher than the subject property's assessment. *Id.* In addition, because the subject property is located on a larger parcel than similar facilities, Ms. Weikart testified that she performed a second sales-comparison analysis with the land removed. *Weikart testimony; Resp't Ex. R-7*. Without the land, the median price per square foot of the comparable sales is \$28.58; whereas the subject property's assessment was only \$20.91 when the land value is excluded. *Id.*
23. Finally, Ms. Weikart testified that she prepared an income-capitalization approach for the subject property. *Resp't R-11*. In doing so, she obtained much of her market data from NAI Harding Dahm, a Fort Wayne-based commercial real estate service firm. *Id.; Weikart testimony*. According to Ms. Weikart, her vacancy and expense rates were generally the same as Mr. Overholt's. *Weikart testimony*. And she obtained her 9.67% capitalization rate from RealtyRates.com. *Id.; Resp't Ex. R-11*. Ms. Weikart estimated the property's value to be \$4,093,355.74, or \$23.01 per square foot, using the income-capitalization approach. *Id.*

## Objection

24. Parker-Hannifin, through Mr. Duff, objected to the Respondent's Exhibit R-15, which was an appraisal of Peg Perego USA, Inc., prepared by Mr. Overholt, on the grounds that the appraisal itself limits its use to that of "...Mr. Paul V. Niccum, Vice President of Finance and Administration, and also Corporate Secretary and Treasurer for *Peg Perego USA, Inc.* ..." <sup>3</sup> *Resp't Ex. R-15 at 23*. Mr. Duff, however, did not identify any statute, rule of evidence, or other authority to support the proposition that a document that is being used for something different than its originally intended purpose, or by someone different than its originally intended user, is not admissible as evidence. Mr. Duff raised no argument that the document is confidential or constitutes any "privileged communication" under Indiana Evidence Rule 501(b). The Board therefore overrules Parker-Hannifin's objection and admits Respondent Exhibit R-15.

## Discussion of Parker-Hannifin's Claim

25. Indiana assesses real property based on its true tax value, which the Manual defines as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A party's evidence in a tax appeal must be consistent with that standard. *See id.* For example, a market-value-in-use appraisal prepared according to USPAP often will be probative. *See id.; Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sales information for the subject property or comparable properties, and any other information compiled according to generally acceptable appraisal principles. MANUAL at 5.
26. Regardless of the method used to challenge an assessment's presumed accuracy, a party must explain how its evidence relates to the property's market value-in-use as of the

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<sup>3</sup> The Board notes that by making an evidentiary objection, Mr. Duff, as a tax representative, at least approached the line demarcating the practice of law, and may have crossed over that line. *See* 52 IAC 1-2-1(b)(4).

relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). Otherwise, the evidence lacks probative value. *See id.*

27. Here, Parker-Hannifin presented an appraisal report, prepared by Brent Overholt, that estimated the subject property's value at \$3,068,000 as of March 1, 2010. Mr. Overholt is an Indiana Certified General Appraiser who prepared the appraisal in accordance with USPAP. The appraisal conforms to the correct valuation date for the March 1, 2010, assessment and, along with Mr. Overholt's testimony, also sufficiently relates to the March 1, 2011, assessment date. An appraisal prepared according to USPAP will often be probative of a property's value. *See Kooshtard Property VI, LLC*, 836 N.E.2d at 506 n.6. Parker-Hannifin has therefore made a prima facie case that the subject property's assessment should be reduced to its appraised value for the 2010 and 2011 assessment years.
28. The Assessor attempted to impeach Parker-Hannifin's appraisal by two means. First, the Assessor offered another appraisal prepared by Mr. Overholt, in which he used many of the same comparables in the respective sales-comparison approaches, but arrived at significantly different adjusted values. The Assessor argues that since the market value should be the same no matter the appraisal's purpose, the discrepancy in values damages Mr. Overholt's credibility. But the Assessor clearly misses the mark. As Mr. Overholt correctly explained, the sales-comparison grid's purpose is not to determine the value of the comparable properties, but to adjust their sale prices for differences between the comparable properties and the subject property to estimate a value for the subject property. Thus, the reason for the differences in the adjusted values is that the Petitioner's property differs from the Peg Perego property.
29. Second, the Assessor contends that the Board should give little weight to Parker-Hannifin's appraisal because Mr. Overholt used foreclosure sales and sale-leaseback transactions in his sales-comparison approach. In addition, the Assessor argues that some of the sales were for properties located outside of Allen County. The Board, however,

finds this argument unpersuasive. It is well within an appraiser's expertise to choose the sales he or she deems most comparable to the subject property and apply adjustments to those comparable properties to value differences between them. Here, while Mr. Overholt acknowledged that a few of his comparables were foreclosure sales or sale-leasebacks, he testified that those types of sales were a significant part of the market. Further, he made adjustments to those sales for the conditions or terms of the sales. Absent evidence to the contrary, the comparable properties chosen by the appraiser, the weight given to the sales, or the adjustments made by an appraiser in a USPAP-compliant appraisal are deemed to be reasonable.<sup>4</sup>

30. The Assessor also attempted to rebut Parker-Hannifin's appraisal with competing sales-comparison and income-capitalization computations. While the two parties followed very similar formats in valuing the property, the Assessor computed a significantly higher value in both approaches. This appears to be mainly due to differences in adjustments in the sales-comparison approach, and a difference in the capitalization rate used in the income approach. Thus, the Board is left with determining which of the competing analyses is more probative of the subject property's value.
  
31. While Mr. Overholt certainly could have done a better job explaining his adjustments and computations, particularly in cross-examination, the Board still finds that Mr. Overholt's value estimate is better supported and explained overall. Moreover, Mr. Overholt is a licensed appraiser who certified that his value estimate is USPAP-compliant. The Assessor's evidence lacks those credentials. Consequently, the Board finds for Parker-Hannifin, and orders that the subject property's assessment be reduced to \$3,068,000 for both March 1, 2010 and March 1, 2011.

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<sup>4</sup> Even if the Board only considered the comparable properties that the Assessor conceded were arm's-length transactions within Allen County—Comparable 1, Comparable 5, and Comparable 12—the average adjusted price per square foot of those properties was \$17.64, which yields a value of only \$3,138,156 for the Petitioner's property.

## SUMMARY OF FINAL DETERMINATION

32. Parker-Hannifin made a prima facie case that the subject property was over-valued for the 2010 and 2011 assessment years. The Assessor failed to impeach or rebut Parker-Hannifin's evidence. The Board finds for Parker-Hannifin and holds that the subject property's assessment is \$3,068,000 for the March 1, 2010, and March 1, 2011, assessment dates.

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

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

## **IMPORTANT NOTICE**

### **- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>.