

STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

John Policicchio Trust,
Petitioner,

v

MTT Docket No. 361544

Charter Township of Brownstown,
Respondent.

Tribunal Judge Presiding
Paul V. McCord

FINAL OPINION AND JUDGMENT

David B. Marmon (P33155), for Petitioner
Stephen J. Hitchcock (P15005), for Respondent

I. INTRODUCTION

Petitioner, John Policicchio Trust, appeals the ad valorem property tax assessments levied against its real property by Respondent, Charter Township of Brownstown, for the 2008 through 2011 tax years. The parties dispute the value of Petitioner's property. By method of assessment, Respondent assigned Petitioner's property an indicated true cash value of \$485,000 for the 2009 tax year, \$464,000 for 2010, and \$464,000 for 2011. Petitioner argues that its property was worth \$308,000, \$215,000, \$251,000 and \$221,000, for tax years 2008, 2009, 2010, and 2011, respectively. Respondent was placed in default on December 6, 2010, for

failure to timely answer interrogatories.¹ Respondent then failed to file or exchange a valuation disclosure and failed to appear at the scheduled Show Cause-Prehearing held on September 28, 2011. This matter was finally brought before this Tribunal pursuant to TTR 247(2) on October 27, 2011, to resolve the tax dispute. Respondent failed to appear at the October 27th default hearing.

We decide two issues. First, we decide whether the true cash value of Petitioner's property is \$215,000, \$251,000 and \$221,000, for tax years 2009, 2010, and 2011, respectively. We hold that it is. Second, we decide whether Petitioner is entitled to an award of costs as the prevailing party pursuant to TTR 145. We hold that it is.

II. JUDGMENT

The Tribunal holds that the subject property's true cash value (TCV), state equalized value (SEV), and taxable value (TV) for the tax years are as follows:

Year	Parcel Number	TCV	SEV	TV
2009	82-70-030-99-0031-000	\$215,000	\$107,500	\$107,500
2010	82-70-030-99-0031-000	\$251,000	\$125,500	\$125,500
2011	82-70-030-99-0031-000	\$221,000	\$110,500	\$110,500

III. FINDINGS OF FACT

This section is a "concise, separate, statement of facts" within the meaning of MCL 205.751, and, unless stated otherwise, the matters stated or summarized

¹ Respondent did file a motion, requesting the Tribunal to reconsider and set aside the default. Respondent's Motion to Set Aside the Default was denied on January 28, 2011.

are “findings of fact” within the meaning of MCL 24.285. Based on the testimony and exhibits admitted in this matter, the Tribunal finds the following facts.

1. Assessment

The Subject is identified on Respondent’s assessment roll by parcel identification number 82-70-030-99-0031-000. The indicated true cash value of the Subject by method of mass appraisal together with the state equalized value (SEV), assessed value (AV), and taxable value (TV), as confirmed by the Board of Review, for each of the tax years at issue are as follows:

Year	TCV	SEV	TV
2009	\$485,000	\$242,500	\$242,500
2010	\$464,000	\$232,000	\$232,000
2011	\$464,000	\$232,000	\$232,000

2. The Subject

The Subject is a one-story office building located at 19901 Dix-Toledo Hwy., Brownstown Township, Wayne County, Michigan. The Subject contains a 2,596 square foot commercial structure on a 0.71 acre commercial lot. The commercial structure was built in 2003, by the current owner/occupant, Petitioner, a residential home builder. Subject is not income-producing property as it is owner-occupied. Although the Subject is of class D commercial construction (wood frame on a concrete slab foundation), it is a well-built office with high grade

quality finishes used, in part, to showcase some of the higher end finishes found in a residential home, i.e., wood trim, crown moldings, and high ceilings. Subject property is categorized as between class A and class B office space. The office area is finished with four offices, a conference room, reception area, and a kitchen/break area. There are three restroom; two standard two-piece restrooms and one standard three-piece restroom with dual entry from the offices. None of these restrooms are ADA compliant. The exterior of the Subject is covered with brick veneer. A large hip roof of engineered trusses punctuated by gabled dormers and covered with architectural grade asphalt shingles caps the Subject. A gabled portico supported by four brick columns graces the front of the Subject, while a three-bay, two-story garage area is located at the rear of the Subject. The Subject does not have access to a natural gas tie-in with DTE and is, instead, serviced by an LP propane tank located on site. Site improvements at the Subject include average landscaping with green areas, a concrete parking area with 18 spaces and one handicapped space, and building-mounted incandescent lighting. The Subject and associated site improvements have been adequately maintained.

3. The Subject's Market

The subject is located within Southeast Michigan in close proximity to Detroit Metropolitan Airport. The Subject's overall market in Brownstown

Township is known for its location in between Downriver (communities Woodhaven, Rockwood, Taylor, for example) and Dearborn. The main freeway, I-75, is the north/south corridor for the entire state and is less than ½ mile from the Subject. Southeast Michigan is influenced by the automotive manufacturing sector and the Subject and its market are directly affected by the automotive industry. During the tax years at issue, a slowdown in the automotive industry has had a consequential effect on the demand for office space. During the tax years at issue, there was an oversupply of office space within the market area of the Subject. The physical vacancy rate was 21.4%.

4. Petitioner's Expert

To support its contention as to the value of the Subject, Petitioner relies upon the report and testimony of Brian Kirksey, ASA, and a Certified General Appraiser, licensed by the state of Michigan. Mr. Kirksey is the chief executive officer of KRES, Inc., a valuation consulting firm. He is an accredited senior appraiser of the American Society of Appraisers, a member of the appraisal institute, has written and presented significantly on valuation topics, and has frequently appeared as an expert witness before the Tribunal. Based on his experience, skill, knowledge, education and training, the Tribunal recognized Mr. Kirksey as an expert witness. Petitioner's expert concluded that the highest and

best use of the Subject is its current use as presently improved and opined that the value of the Subject was as follows: \$215,000 as of December 31, 2008, \$251,000 as of December 31, 2009, and \$221,000 as of December 31, 2010.

5. Petitioner's Expert's Approach to Valuation

Mr. Kirksey considered all three approaches to value (cost, income, and sales) in developing his opinion of value. Petitioner's expert relied on both the sales approach and the income approach in arriving at his conclusion of value. He placed most weight on the sales approach. Mr. Kirksey did not apply a cost approach to determine the true cash value of subject property because of the ever-worsening real estate market with a surplus inventory of space. The cost approach was not relevant to develop.

a. Petitioner's market approach

Mr. Kirksey testified that when employing the market approach, he first inspects the subject, taking measurements and photos. Petitioner's expert posited that a likely buyer for the subject would be an owner/user; that this hypothetical buyer would occupy the Subject and lease out any remaining portion. Given the size and configuration of the Subject the most likely purchaser would be a local investor/user.

Mr. Kirksey then researches sales in the subject's market area, selecting those sales which he deems most comparable. Finally, he makes adjustments to the comparable sales price to account for any differences between the subject and the comparable sales. In the instant matter he located five sales, all in in the “Downriver” area of Southeast Michigan and within close proximity to the Subject. Petitioner’s expert then narrowed the five sales down to three as two were medical offices, which have different space and office finish.

Petitioner’s expert adjusted the three sales for differences in location, use, age, condition, and functional obsolescence (subject property has propane not natural gas access). The sales are as follows:

Sale #	1	2	3
Location	Wayne	Livonia	Wyandotte
Sale Date	Sep-07	Nov-06	Jun-06
Square Feet	2,150	3,200	3,748
Year Built	1970	1994	1986
Sale Price	\$205,000	\$459,000	\$525,000
SP/SF	\$96.35	\$143.44	\$140.07
Adjusted SP/SF	\$104.88	\$121.92	\$119.06

Petitioner’s expert considered the garage/storage area of the Subject a super adequacy and did not add to the market value of the subject property. Mr. Kirksey did not find sales with garages as part of the professional office. He stated that the cost to convert the garage to office space would cost from \$80.00 to \$150.00 per

square foot in a market that sells finished space for \$90.00 per square foot. It would far exceed the return on value to convert the space.

Mr. Kirksey adjusted all of the sales a negative 5% for lack of the propane tank. In addition, Sale 1 was adjusted for its larger size; Sale 2 was adjusted a negative 20% for its superior use as a medical building and age, and 5% for its larger size; and Sale 3 was adjusted negative 10% for its superior location. Mr. Kirksey explained that the range of sale prices after adjustments ranged from \$65.82 for the most recent sale to \$98.48. Sale 3 was given 10% weight and sales 1 and 2 were given 45% weight, which results in an indicated \$83.21 per square foot. \$83.21 multiplied by 2,589 square feet equals \$215,000 market value for tax year 2009. Petitioner's Expert utilized the same methodology for the subsequent tax years at issue and found that the market value via the sales comparison approach was as follows: \$251,000 as of December 31, 2009, and \$221,000 as of December 31, 2010.

b. Petitioner's Income Approach

The Subject is owner occupied and has not been leased. Mr. Kirksey developed an income approach to value. Average rental rates for each year at issue of comparable properties was determined to range from \$12.00 to \$18.50 per square foot. Petitioner's expert testified that the higher ends of the range were

utilized as medical offices. The lower ends of the range were properties that were occupied by professionals that did not need the higher quality finishes of the medical profession. Petitioner's expert selected \$12.00 per square foot as market rent for the 2008 tax year. After multiplying his rental rate per square foot by the Subject's square footage, Mr. Kirksey concluded that the Potential Gross Income of the Subject was \$31,068, per year.

The typical lease in the area indicates a vacancy rate of 9.2% with an additional 2.5% for collection loss. Petitioner's expert explained that it would take a property approximately eleven months to lease up in a typical holding period of ten years. Thus a typical buyer would need to reserve 9.2% of the income for the period of time the property would be vacant. Over a ten-year period this would equal an 11.7% allocation for eviction for 90 days of non-payment. Petitioner's expert noted that Colliers publishes a report that indicated a 21% vacancy would be reflective of the market. The area does not have any new construction that impacts the vacancy. After subtracting the 11.7% vacancy from the Potential Gross Income, Mr. Kirksey concluded that the Effective Gross Income of the Subject was \$27,433, per year.

Market expenses for the Subject, based on an examination of expenses for comparable properties were concluded to be as follows: Management 5% of Effective Gross income, Reserves for Replacement \$0.48 per square foot,

Insurance \$207, Site management \$1,010, and Miscellaneous \$78. The total expenses equal \$3,909 or 14.25%. Subtracting these expenses from the Effective Gross Income yields a Net Operating Income (“NOI”) of the Subject of \$23,524.

Petitioner’s expert extracted an overall capitalization rate based on comparable sales that range from 10.6% to 11.0%. Mr. Kirksey selected a rate of 10.6% for the Subject. Mr. Kirksey then “loaded” or adjusted his capitalization to reflect the percentage of property taxes. The millage rate for Brownstown Township was multiplied by 50% (the level of assessment) with the product being added to the capitalization rate of for a tax neutral overall capitalization rate of 13.46%. After dividing his determined NOI by the overall capitalization rate, Mr. Kirksey concluded the Subject was worth \$175,000 via the income approach for tax year 2008. Mr. Kirksey followed the same technique for the subsequent tax years to result in: \$141,000 as of December 31, 2008, \$133,000 as of December 31, 2009, and December 31, 2010 via the income approach.

IV. CONCLUSIONS OF LAW

1. Overview

A determination of true cash or fair market value is factual, and a trier of fact must weigh all relevant evidence of value and draw appropriate inferences. See *Edward Rose Bldg Co v Independence Twp*, 436 Mich 620, 638; 462 NW2d

325 (1990). A property's "true cash value" is defined as the property's "usual selling price" or "fair market value" under MCL 211.27(1). See also *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450; 221 NW2d 588, 592 (1974). Inasmuch as true cash value and "fair market value" are synonymous concepts, they infer the usual price that a willing buyer would pay a willing seller, both persons having reasonable knowledge of all relevant facts and neither person being under any compulsion to buy or to sell. See, e.g., *United States v Cartwright*, 411 US 546, 551 (1973). The willing buyer and the willing seller are hypothetical persons, rather than specific individuals or entities, and the characteristics of these hypothetical persons are not necessarily the same as the personal characteristics of the actual seller or a particular buyer. See, e.g., *Consumers Power Company v Port Sheldon Twp*, 91 Mich App 180; 283 NW2d 680 (1979), abrogated in part on other grounds *County of Wayne v Michigan State Tax Com'n*, 261 Mich App 174; 682 NW2d 100 (2004); see also Samuel J. McKim III, *Is Michigan's Ad Valorem Property Tax Becoming Obsolete?*, 77 U Det Mercy L Rev 655 (2000). Fair market value reflects the highest and best use of the relevant property on the valuation date and takes into account uses that are realistically available because of the property's adaptability to a particular purpose. See *Edward Rose Bldg Co*, *supra* at 633; *Detroit Plaza Ltd Partnership*, 273 Mich App 260, 285; 730 NW2d 523 (2006). Fair market value is not affected by

whether the owner has actually put the property to its highest and best use. The reasonable and objective possible uses for the property control the valuation thereof. *Detroit Plaza, supra* at 285.

In determining the market value of property, the Tribunal considers the three traditional approaches to valuation (cost, market, and income). *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353; 483 NW2d 416 (1992). All three methods were applied in the present case. We have wide discretion when it comes to accepting valuation testimony and appraisal evidence. See *President Inn Props LLC v Grand Rapids*, 291 Mich App 625; 806 NW2d 342, 348 (2011).

Sometimes, it will help us decide a case. Other times, it will not. We may place greater or lesser emphasis on a particular method or methods of valuation. See *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 485-486; 473 NW2d 636 (1991). And the Tribunal is under no obligation to accept the valuation figures or the approach to valuation advanced by either party. *President Inn, supra* at 351, citing *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985). We weigh the parties' testimony in light of his or her qualifications, knowledge of the Subject and relevant market, and with proper regard to all other credible evidence in the record. See *Id.* at 352. After considering all the evidence, the Tribunal makes an independent determination based on the preponderance of the evidence. See MCL 205.735a(2); see also

President Inn, 806 NW2d at 352; *Great Lakes Div of Nat'l Steel*, *supra* at 389,

410. Regardless of the valuation approach we employ, the final value determination must represent the usual price for which the subject property would sell. *Meadowlanes*, *supra* at 485-486.

2. *Burden of Proof*

The burden of proof before the Tax Tribunal is upon the party seeking relief which, in most instances, is the taxpayer; it is petitioner's burden to establish the true cash value of its property. MCL 205.737(3); *President Inn*, *supra* at 347.

The burden of proof encompasses two concepts: (1) the burden of going forward with the evidence, which may shift to the opposing party, and (2) the burden of persuasion, which does not shift during the course of the hearing. *Great Lakes Div of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 409-410; 576 NW2d 667 (1998).

In other words, a petitioner must produce affirmative evidence supporting its claim as to the market value of its property during tax years at issue. See, e.g., *Berenjian v City of Ann Arbor*, unpublished opinion per curiam of the Court of Appeals, issued November 29, 2011 (Docket No 300490), slip op at 3. If the evidence introduced by the petitioner is sufficient, albeit not necessarily conclusive, that the challenged assessment may be wrong, then the respondent has the burden of going forward with its evidence supporting its claim as to the market value of the

property. *Great Lakes Div of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 409-410; 576 NW2d 667 (1998).

The Tribunal finds that Petitioner has produced sufficient evidence to shift the burden of going forward for the evidence to Respondent. If taken as true, the opinion of Petitioner's expert and the facts upon which he relied create a sufficient question regarding the correctness of true cash value of the Subject as indicated on Respondent's assessment roll for each of the tax years at issue to allow the Tribunal to make an independent determination of the value of Petitioner's property.

A finding that a petitioner has met its burden of going forward with the evidence does not equate to a finding that the value of the property is less than that on the assessment roll. To the contrary, by meeting its burden of going forward with the evidence, the Tax Tribunal is then obligated under the Tax Tribunal Act to address the question of what value should be accorded to the property. See MCL 205.735(2). This is because once the burden of going forward with the evidence is met, "[t]he Tax Tribunal has a duty to make an independent determination of true cash value." *President Inn, supra* at 347. Accordingly, we must turn to a consideration of the evidence adduced on behalf of both parties. We must be persuaded by the preponderance of the evidence that it is "more likely than not" that the true cash value of Petitioner's property is less than that as established on

the assessment rolls. See generally, *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490, 495; 644 NW2d 47 (2002). This is the burden of persuasion and it remains on the petitioner throughout the entire case.

3. *Valuation*

Here, as Petitioner's evidence was sufficient to call into question Respondent's value on the assessment roll, it was incumbent on Respondent to demonstrate with competent credible evidence its claim as to the market value of the property. Save for Respondent's general denials in its Answer and the assessment records of the Subject appended thereto, Respondent offered nothing. In fact, Respondent could not be so inconvenienced as to even appear at either the prehearing or hearing in this matter. We note that Respondent's assessment enjoys no presumption of validity. *President Inn, supra* at 351-352. Moreover, we decline to place significant weight on Respondent's assessment records as bearing the most accurate reflection of the Subject's TCV as of the tax years at issue.

a. *Respondent's assessment records*

A property's assessed value is annually set by the local assessor through the application of appropriate mass appraisal guidelines prescribed by the State Tax Commission. When appraising a mass of commercial properties, the Michigan Assessor's Manual employs a cost-less-depreciation analysis and relates the

depreciated building costs to what properties are selling for in the relevant market through the use of an Economic Condition Factor (ECF). Although the accuracy of each individual assessment is important, it is not all-important in the context of mass appraisal, as the methods required to be applied strive to permit a value to be annually determined for every property within the assessing unit. In this regard, while the correct application of mass appraisal guidelines can produce fairly uniform results when spread across a large population of parcels ensuring that, in the aggregate, real property within the assessing unit is assessed at no more than 50% of “true cash value,” or “TCV”² it does not, without more, necessarily yield an accurate true cash value conclusion at the individual parcel level. See, e.g., *County of Wayne, supra*, 197. Although uniformity is important, the Tax Tribunal has a narrower focus; our specific concern is the most accurate determination of the value of the property under appeal. See *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984).

Respondent’s assessment was developed using computer software that follows the State Tax Commission Cost Manual, to compute cost-based³

² See 1963 Const, art 9 § 3; see also MCL 211.27a(1).

³ The premise of the cost approach assumes that the market value of a building, such as the subject property, can be related to its cost. The cost approach assigns a value to a subject property based upon the cost to build a similar, new, or substitute property. The Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 13th ed, 2008), p 377. That estimate is then adjusted for the subject’s depreciation, *Id.* at 378, and relates to the loss of the building’s market value over time from all causes: physical deterioration, functional obsolescence (such as changes in market desired layouts, level of insulation, energy efficiency, etc.) and external obsolescence (such as, for example, adverse market conditions).

assessments for property and to ensure that the resulting assessment was both fair and uniform. The computation of TCV by reference to mass appraisal guidelines is based upon information not specific to any particular piece of property. In other words, by offering its assessment records, Respondent is asking the Tribunal to use non-specific information to establish the value of the Subject. In the context of this case, and given the other evidence presented, it is unlikely that such an approach could produce the most accurate determination of the value of the Subject.

We also note that the primary weakness in the cost approach is in the estimate of depreciation, be it physical, functional, or external in nature. All structures are forced to change over time because of physical deterioration, changing surroundings, available technology, and the life within. As a result, depreciation is difficult to estimate and the accuracy of the approach wanes in the intervening period much past the first few years after the date of original construction to the point where the structure has fully depreciated from all causes. This point leads us to question whether an ECF of 1.0 has market support, as it suggests that depreciated building costs of commercial structures equate exactly to what the value such structures are actually bringing in the relevant market. Petitioner's evidence demonstrates otherwise in that the relevant market was oversupplied during the tax years at issue. We do not find Respondent's ECF computation convincing.

Finally, we note that while an owner-occupant may consider the cost to build new in its transactional decisions, they infrequently rely on this method of valuation as their principal decision making tool. Moreover, the unchallenged evidence from Petitioner's expert was that the Subject's market had such a high amount of inventory that it would be unlikely that a prospective buyer would build their own property, when available properties are abundant. Petitioner's expert was persuasive and credible on this point. The cost approach has little bearing on the market if buyers and sellers would not consider the cost to build as an alternative to buying an existing facility on property. *Great Lakes Div of Nat'l Steel Corp*, 227 Mich App at 402. In this regard, its application is not particularly relevant.

In sum, we give no weight to Respondent's assessment records. Respondent offered no support for the computations reflected thereon. The assessment process lacks sensitivity to current market factors and specific property characteristics, presents an unacceptable risk of imprecision, the cost approach is not particularly relevant or credible with respect to the Subject and in light of the other evidence presented. We turn to Petitioner's sales approach.

b. Petitioner's market approach

In support of its contention of value, Petitioner offered both an extensive and detailed appraisal of the Subject, together with the expert testimony of the report's

author, Mr. Kirksey. Petitioner's expert placed principal reliance on his market approach over his income approach given that the Subject is an owner-occupied building and not an income-producing property. We agree.

Under the sales comparison approach, the value of a property is derived by “comparing the subject property with similar properties, called comparable sales.” Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 13th ed, 2008), p 297. That comparison is based on many factors, and adjustments are made for any differences between the comparable sales and the subject property so that the appraiser can derive a value for the subject property. *Id.* The sales comparison approach is most useful when a number of similar properties have recently been sold or are currently for sale in the subject property's market. See, e.g., State Assessor's Manual, Volume III, Chapter 9, p 9-1 (instructing that the reliability of the sales comparison approach is directly related to the availability of recent sales). The sales comparison approach has been described as the only approach that directly reflects the balance of supply and demand for property in marketplace trading when there are sufficient recent, reliable transactions to indicate value patterns and trends in the market. *Jones & Laughlin Steel Corp, supra* at 353; *The Appraisal of Real Estate, supra* at 300.

The market approach is applicable to all types of real property interests when there are sufficient recent, reliable transactions to indicate value patterns and trends in the market. For property types bought and sold regularly, the market approach often provides a supportable indication of market value. When data is available, this is the most straightforward and simple way to explain and support an opinion of market value. *Id.* at 300.

The Tribunal finds Petitioner's market approach to be the best method for determining the true value of Petitioner's property for the 2009 tax year. The report and testimony, taken as a whole, was more than sufficient to convince the Tribunal that Petitioner's expert researched the relevant market and selected the appropriate comparable properties to the Subject. His conclusions in this regard are reasonable. The probative value of an expert's opinion must stand or fall upon the facts and reasoning offered in support of that opinion. The undersigned is convinced by the appropriate standard of proof that Petitioner's adjustments were appropriately devised and adequately supported in this matter. Based on the foregoing, the Tribunal finds that Petitioner's market approach methodology presents the most accurate, relevant, credible, and supportable indication of the true cash value of the Subject for each of the tax years at issue.

4. *Award of Costs*

TTR 145(1) allows the Tribunal to order costs be remunerated to a prevailing party in an appeal before the Tribunal. The decision to award costs is solely within the discretion of the Tribunal judge. The Tribunal is generally hesitant to award costs; however, the burden of proof before the Tax Tribunal in this instance rested with Petitioner, and Respondent failed by any measure to demonstrate even the slightest interest in pursuing whatever justifiable issues may exist in this case. As a result, Respondent caused Petitioner to incur costs that would otherwise have been unnecessary and the Tribunal to devote resources to a case that posed no apparent real dispute. Pursuant to TTR 145(1), the Tribunal may, upon motion or upon its own initiative, allow a prevailing party in a decision or order to request costs. Petitioner has submitted a bill for costs. Having carefully considered this case in totality, and because there can be no question that Petitioner is the prevailing party, the Tribunal awards Petitioner costs as provided by MCL 600.2421b.

V. CONCLUSION

After a careful review and weighing of the testimony and exhibits presented and after considering the credibility of the witness, Petitioner's sales approach yields the more reliable, probative, and supported evidence as to the value of the

Subject for each of the tax years at issue. We conclude that Petitioner met its burden of proof and that a reduction in the assessment is warranted. For the above reasons, the conclusion of the Tribunal is that the true cash value of Petitioner's property for tax years 2009, 2010, and 2011 was \$215,000, \$251,000, and \$221,000, respectively. Moreover, Petitioner, as the prevailing party, is entitled to costs incurred in connection with this default hearing; therefore,

IT IS ORDERED that the officer charged with maintaining the assessment rolls for the tax year at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment, the subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Order within 28 days of the entry of this Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and

interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of the Tribunal's order. As provided in 1994 PA 254, being MCL 205.737, as amended, interest shall accrue for periods after March 31, 1985, but before April 1, 1994, at a rate of 9% per year. After March 31, 1994, but before January 1, 1996, interest rate of the 94-day discount treasury bill rate for the first Monday in each month plus 1%. As provided in 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods after January 1, 1996 at an interest rate set each year by the Department of Treasury. Pursuant to 1995 PA 232, interest shall accrue . . . (i) after December 31, 2007 at the rate of 5.81% for calendar year 2008, (ii) after December 31, 2008, at the rate of 3.31% for calendar year 2009, (iii) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (iv) after December 31, 2010, at the rate of 1.12% for calendar year 2011, and (v) after December 31, 2011, at the rate of 1.09 for calendar year 2012.

This Opinion resolves all pending claims and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: March 20, 2012

By: Paul V. McCord