

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

CW Dev LLC/Meadow Walk,
Petitioner,

v

MTT Docket No. 319076

Township of Grand Blanc,
Respondent.

Tribunal Judge Presiding
Victoria L. Enyart

OPINION AND JUDGMENT

Introduction

Petitioner, CW Dev LLC/Meadow Walk, appeals the assessed value levied by Respondent, Township of Grand Blanc, against the real property owned by Petitioner for the 2005, 2006, 2007 and 2008 tax years. David B. Marmon, attorney, appeared on behalf of Petitioner. Lyndon Lattie, attorney, appeared on behalf of Respondent. Respondent's assessor, Peggy Nolde, testified as the only witness.

The proceedings were brought before this Tribunal on November 9, 2009, to resolve the taxable value dispute.

At issue before the Tribunal is the determination of the taxable value of Petitioner's real property. The value on the assessment roll, Petitioner's contentions, and the Tribunal's final determination is as follows:

2005	Respondent	Petitioner	Tribunal's
Parcel No.	TV	TV	TV
12-03-651-001	\$150,348	\$146,900	\$150,348
12-03-100-012	\$684,591	\$300,000	\$684,591
12-03-651-002	\$119,548	\$116,100	\$119,548

12-03-651-003	\$99,348	\$95,900	\$99,348
12-03-351-004	\$19,948	\$15,000	\$19,948
12-03-351-005	\$19,948	\$15,000	\$19,948
12-03-351-006	\$19,948	\$15,000	\$19,948
12-03-351-007	\$19,948	\$15,000	\$19,948
12-03-351-008	\$19,948	\$15,000	\$19,948
12-03-351-009	\$19,948	\$15,000	\$19,948
12-03-351-010	\$19,948	\$15,000	\$19,948
12-03-351-011	\$19,948	\$15,000	\$19,948
12-03-351-014	\$102,748	\$20,300	\$102,748
12-03-351-015	\$19,948	\$15,000	\$19,948
12-03-351-016	\$19,948	\$15,000	\$19,948
12-03-351-018	\$19,948	\$15,000	\$19,948
12-03-351-019	\$26,000	\$18,500	\$26,000
12-03-351-021	\$19,948	\$16,400	\$19,948
12-03-351-024	\$105,648	\$20,550	\$105,648
12-03-351-029	\$19,948	\$15,000	\$19,948
12-03-351-030	\$19,948	\$15,000	\$19,948
12-03-351-032	\$19,948	\$15,000	\$19,948
12-03-351-035	\$19,948	\$15,000	\$19,948
12-03-651-040	\$19,948	\$15,000	\$19,948
12-03-651-042	\$19,948	\$15,000	\$19,948
12-03-651-043	\$19,948	\$15,000	\$19,948
12-03-651-045	\$19,948	\$15,000	\$19,948
12-03-651-046	\$19,948	\$15,000	\$19,948
12-03-651-050	\$19,948	\$15,000	\$19,948
12-03-651-051	\$19,948	\$15,000	\$19,948
12-03-651-052	\$19,948	\$15,000	\$19,948
12-03-651-054	\$19,948	\$15,000	\$19,948
12-03-651-055	\$19,948	\$15,000	\$19,948
12-03-651-056	\$19,948	\$15,000	\$19,948

2006	Respondent	Petitioner	Tribunal's
Parcel No.	TV	TV	TV
12-03-651-001	\$152,500	\$144,300	\$152,500
12-03-100-012	\$707,182	\$698,982	\$707,182
12-03-651-002	\$122,000	\$113,800	\$122,000
12-03-651-003	\$102,626	\$94,426	\$102,626
12-03-351-004	\$20,606	\$12,406	\$20,606
12-03-351-005	\$20,606	\$12,406	\$20,606
12-03-351-006	\$20,606	\$12,406	\$20,606
12-03-351-007	\$122,206	\$114,006	\$122,206
12-03-351-008	\$20,606	\$12,406	\$20,606
12-03-351-010	\$117,206	\$109,006	\$117,206
12-03-351-014	\$106,138	\$97,938	\$106,138
12-03-351-016	\$116,806	\$108,606	\$116,806

12-03-351-021	\$87,006	\$78,806	\$87,006
12-03-351-024	\$111,234	\$103,034	\$111,234
12-03-351-029	\$20,606	\$12,406	\$20,606
12-03-351-030	\$20,606	\$12,406	\$20,606
12-03-651-040	\$99,806	\$91,606	\$99,806
12-03-651-042	\$170,400	\$162,200	\$170,400
12-03-651-043	\$82,806	\$74,606	\$82,806
12-03-651-045	\$46,000	\$37,800	\$46,000
12-03-651-050	\$46,000	\$37,800	\$46,000
12-03-651-051	\$178,000	\$169,800	\$178,000
12-03-651-052	\$46,000	\$37,800	\$46,000
12-03-651-054	\$144,600	\$136,400	\$144,600
12-03-651-055	\$46,000	\$37,800	\$46,000
12-03-651-056	\$46,000	\$37,800	\$46,000

2007	Respondent	Petitioner	Tribunal's
Parcel No.	TV	TV	TV
12-03-651-001	\$153,000	\$144,800	\$153,000
12-03-100-012	\$733,347	\$725,147	\$733,347
12-03-651-002	\$122,400	\$114,200	\$122,400
12-03-651-003	\$103,700	\$95,500	\$103,700
12-03-351-004	\$21,368	\$13,168	\$21,368
12-03-351-005	\$21,368	\$13,168	\$21,368
12-03-351-006	\$21,368	\$13,168	\$21,368
12-03-351-016	\$119,600	\$111,400	\$119,600
12-03-351-029	\$21,368	\$13,168	\$21,368
12-03-351-030	\$21,368	\$13,168	\$21,368
12-03-651-045	\$21,368	\$13,168	\$21,368
12-03-651-050	\$89,300	\$81,100	\$89,300
12-03-651-051	\$21,368	\$13,168	\$21,368
12-03-651-055	\$21,368	\$13,168	\$21,368
12-03-651-056	\$21,368	\$13,168	\$21,368

2008	Respondent	Petitioner	Tribunal's
Parcel No.	TV	TV	TV
12-03-651-001	\$145,700	\$137,500	\$145,700
12-03-100-012	\$750,213	\$742,013	\$750,213
12-03-651-002	\$117,300	\$109,100	\$117,300
12-03-351-004	\$23,000	\$14,800	\$23,000
12-03-351-005	\$23,000	\$14,800	\$23,000
12-03-351-006	\$23,000	\$14,800	\$23,000
12-03-351-016	\$114,600	\$106,400	\$114,600
12-03-351-029	\$23,000	\$14,800	\$23,000
12-03-351-030	\$23,000	\$14,800	\$23,000
12-03-651-045	\$92,900	\$84,700	\$92,900
12-03-651-050	\$86,000	\$77,800	\$86,000

12-03-651-051	\$58,300	\$50,100	\$58,300
12-03-651-055	\$23,000	\$14,800	\$23,000
12-03-651-003	\$99,000	\$90,800	\$99,000

2009	Respondent	Petitioner	Tribunal's
Parcel No.	TV	TV	TV
12-03-651-001	\$127,800	\$119,600	\$127,800
12-03-100-012	\$665,000	\$656,800	\$665,000
12-03-651-002	\$103,000	\$94,800	\$103,000
12-03-351-004	\$20,000	\$11,800	\$20,000
12-03-351-005	\$20,000	\$11,800	\$20,000
12-03-351-006	\$20,000	\$11,800	\$20,000
12-03-351-029	\$20,000	\$11,800	\$20,000
12-03-351-030	\$20,000	\$11,800	\$20,000
12-03-651-045	\$81,400	\$73,200	\$81,400
12-03-651-050	\$73,500	\$65,300	\$73,500
12-03-651-051	\$54,500	\$46,300	\$54,500
12-03-651-055	\$20,000	\$11,800	\$20,000
12-03-651-003	\$88,500	\$80,300	\$88,500

Background and Introduction

At issue for the tax years at issue is the true cash value for vacant lots located in Grand Blanc Township, Genesee County. Petitioner purchased the vacant land in 2003, and subdivided the property in 2004. Some of the lots have sold from the 2005 initial appeal to the current 2009 hearing, thus decreasing the number of parcels appealed for subsequent years. The property is zoned residential.

Petitioner contends that Respondent included \$8,200 true cash value per lot for infrastructure.

Respondent did not have any “additions” to the taxable value under MCL 211.34(d)(1)(b)(viii) after 2003.

Petitioner’s Arguments

Petitioner argues that to the extent taxable value includes an “addition” for taxable value, when the infrastructure is dedicated to the governmental entity there should also be a taxable value loss.

Petitioner argues that the Supreme Court in Michigan has ruled that unless they state otherwise they being the Supreme Court their decisions are always retroactively applied unless there’s a situation where justice requires otherwise. I haven’t seen any cases where anybody other than the Supreme Court can say something isn’t retroactive. Typically cases which are decided that retroactivity doesn’t apply would be a case where there is an award of damages, and maybe the law has changed.

This is a tax appeal. There’s no damage. It’s basically a refund of the money that the taxpayer has already paid, rather than asking for the city to come up with money from some other source. So it’s my contention that the Supreme Court as they’ve currently formulated things, their decisions uncover the truth of the law and are retroactive unless they say otherwise, yes, Toll is retroactive and would apply. Tr, pp 20, 21.

Petitioner’s only witness was Peggy Nolde, assessor, to clarify the actual parcel identification numbers for the parcels that Petitioner owned and appealed. The hearing was conducted in order to have a clear record should Petitioner appeal the decision.

Petitioner had no evidence and could not continue the true cash value appeal. Petitioner believes that, when a parcel of vacant land has infrastructure included, when it sells or becomes a subdivision the amount of the taxable value “addition” (in this instance \$8,200 true cash or \$4,100 taxable value) added to each parcel should coincide to a taxable value “loss” for assessing purposes.

Respondent's Argument

Respondent argues that the subject properties had no taxable value addition for the 2005 tax year, and for each year thereafter; the appropriate Consumer Price Index ("CPI") was properly applied to each parcel.

Tribunal's Findings of Fact

Petitioner purchased the subject property in 2003. The property was subdivided in 2004. The Tribunal does not have jurisdiction over the 2004 tax year because Petitioner did not file an appeal until 2005. The Tribunal has no jurisdiction to reduce a taxable value for infrastructure improvements a year or two later. The retroactive application of reducing taxable value for the inclusion of infrastructure for years not under appeal for the Tribunal is not within the scope of this Tribunal.

The Tribunal finds that Respondent has increased the taxable value appropriately using the correct CPI as indicated in MCL 211.27a (2):

Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:

- (a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions.

Petitioner did not file an appeal for the 2004 tax year in which the properties' taxable value increased above the CPI. The appeal was filed in 2005. The Tribunal finds it has no jurisdiction over the 2004 taxable value. MCL 205.735(3) states:

The jurisdiction of the tribunal in an assessment dispute is invoked by a party in interest, as petitioner, filing a written petition on or before June 30 of the tax year involved.

Furthermore, Petitioner presented no evidence as to the \$8,200 value of the infrastructure.

Petitioner for this hearing was allowed to make a record. The Tribunal issued on June 9, 2008 an Order Granting Respondent's Cross-Motion for Partial Summary Disposition for the taxable value issue. The only remaining issue to resolve was true cash value. Petitioner was not able to present any evidence or testimony as to the true cash value of the subject properties. Petitioner, therefore, did not carry its burden of proof.

Conclusions of Law

Pursuant to Section 3 of Article IX of the State Constitution, the assessment of real property in Michigan must not exceed 50% of its true cash value. The Michigan Legislature has defined true cash value to mean the usual selling price at the place where the property to which the term is applied is at the time of the assessment, being the price which could be obtained for the property at private sale, and not forced or auction sale. See MCL 211.27(1). The Michigan Supreme Court in *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450 (1974), has also held that true cash value is synonymous with fair market value.

In that regard, the Tribunal is charged in such cases with finding a property's true cash value to determine the property's lawful assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767 (1981). The determination of the lawful assessment will, in turn, facilitate the calculation of the property's taxable value as provided by MCL 211.27a. A petitioner does,

however, have the burden of establishing the property's true cash value. See MCL 205.737(3) and *Kern v Pontiac Twp*, 93 Mich App 612 (1974).

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law...The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%....; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963 Art IX , Sec 3.

The Tribunal finds that Petitioner was not able to show that the properties were overassessed for the tax years at issue.

Judgment

IT IS ORDERED that the property's taxable values for the tax years at issue are AFFIRMED.

This Order resolves all pending claims in this matter and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: February 27, 2010

By: Victoria L. Enyart