

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

Coyote II LLC,
Petitioner,

v

MTT Docket No. 451896

Tyrone Township,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

FINAL OPINION AND JUDGMENT

The Tribunal, having given due consideration to the file in the above-captioned case, finds:

1. The Tribunal issued a Proposed Opinion and Judgment on March 4, 2015. The Proposed Opinion and Judgment states, in pertinent part, “[t]he parties have 20 days from date of entry of this POJ to notify the Tribunal **in writing, by mail or by electronic filing, if available**, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions).”
2. Neither party has filed exceptions to the Proposed Opinion and Judgment. The ALJ considered the testimony and evidence submitted and made specific findings of fact and conclusions of law. The ALJ’s determination is supported by the testimony, evidence and applicable statutory and case law.
3. Given the above, the Tribunal adopts the Proposed Opinion and Judgment as the Tribunal’s final decision in this case.¹ The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the Proposed Opinion and Judgment in this Final Opinion and Judgment. As a result:
 - a. The property’s TCV, SEV and TV as established by the Board of Review for the tax years at issue are as follows:

Parcel Number: 4704-08-101-075

Year	TCV	SEV	TV
2013	\$2,571,000	\$1,285,500	\$708,559
2014	\$2,537,400	\$1,268,700	\$719,895

- b. The property’s TCV, SEV and TV as determined by the Tribunal for the tax years at issue are as follows:

¹ See MCL 205.726.

Parcel Number: 4704-08-101-075

Year	TCV	SEV	TV
2013	\$625,000	\$312,500	\$312,500
2014	\$616,900	\$308,450	\$308,450

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as provided in this Final Opinion and Judgment within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.² 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 within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and 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 this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2009, at the rate of 1.23% for calendar year 2010; (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011; (iii) after December 31, 2011, and prior to July 1, 2012, at the rate of 1.09%; and (iv) after June 30, 2012, through June 30, 2015, at the rate of 4.25%.

This Final Opinion and Judgment resolves the last pending claim and closes this case.

APPEAL RIGHTS

If you disagree with the Tribunal's final decision in this case, you may either file a motion for reconsideration with the Tribunal or a claim of appeal directly to the Michigan Court of Appeals ("MCOA").

A motion for reconsideration with the Tribunal must be filed, by mail or personal service, with the \$25.00 filing fee, if applicable, within 21 days from the date of entry of this final decision.³ A copy of a party's motion for reconsideration must be sent by mail or electronic service, if agreed

² See MCL 205.755.

³ See TTR 257 and TTR 267.

upon by the parties, to the opposing party and proof must be submitted to the Tribunal that the motion for reconsideration was served on the opposing party.⁴ However, unless otherwise provided by the Tribunal, no response to the motion may be filed, and there is no oral argument.⁵

A claim of appeal to the MCOA must be filed, with the appropriate entry fee, unless waived, within 21 days from the date of entry of this final decision.⁶ If a claim of appeal is filed with the MCOA, the party filing such claim must also file a copy of that claim, or application for leave to appeal, with the Tribunal, along with the \$100.00 fee, if applicable, for the certification of the record on appeal.⁷

By: Steven H. Lasher

Entered: April 10, 2015
krb

⁴ See TTR 225.

⁵ See TTR 257.

⁶ See MCR 7.204.

⁷ See TTR 213 and TTR 267.

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

Coyote II, LLC,
Petitioner,

v

MTT Docket No. 451896

Tyrone Township,
Respondent.

Administrative Law Judge Presiding
Thomas A. Halick

ORDER DENYING PETITIONER'S MOTION FOR COSTS

PROPOSED OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Coyote II, LLC , appeals ad valorem property tax assessments levied by Respondent, Township of Tyrone, against Parcel No. 4704-08-101-075 for the 2013 and 2014 tax years. Attorneys Peter J. Ellenson and Frederick Gordon, represented Petitioner and Bruce A. Little, Assessor, represented Respondent.

A hearing on this matter was held on December 10, 2014. Petitioner's sole witness was Michael Rende, MAI, Michigan Certified General Real Estate Appraiser. Respondent's sole witness was Bruce A. Little, who is a Level IV Assessor.

Based on the evidence and testimony, the Tribunal finds that the true cash values ("TCV"), state equalized values ("SEV"), and taxable values ("TV") of the subject property for the 2012 and 2013 tax years are as follows:

Parcel No.	Year	TCV	SEV	TV
4704-08-101-075	2013	\$625,000	\$312,500	\$312,500
4704-08-101-075	2014	\$616,900	\$308,450	\$308,450

PETITIONER'S CONTENTIONS

Petitioner contends that the evidence presented in this case supports a determination that the true cash value of the subject property on the assessment rolls is overstated and should be substantially reduced. Specifically, Petitioner contends that: (i) the subject property's highest and best use is its current use as a 233-acre golf course, (ii) the cost approach is not a factor in the

valuation process for this property, but the income and sales approach should be considered, (iii) the subject is a stabilized property, exhibiting consistent gross income and expenses over a five year period, (iv) the most appropriate method to use in valuing the subject property is the income approach, based on the actual income and expenses of the subject, with certain adjustments to reflect market expenses, (v) the cost approach used by Respondent’s Assessor fails to reflect the motivations of market participant for this income-producing property, (vi) Respondent has not provided evidentiary support or expert testimony to support its speculative assertion that the property’s highest and best use is as vacant land, (vii) there is no basis in law for Respondent’s position that the property should be valued by adding land value as vacant to a value based on income, (viii) the true cash value of the subject property should be \$625,000 for the 2013 tax year.

As determined by Petitioner’s appraiser, the TCV, SEV, and TV for the subject property for the tax years at issue, as revised by Petitioner’s appraiser during testimony, should be as follows:

Parcel Number: 4704-08-101-075

Year	TCV	SEV	TV
2013	\$625,000	\$312,500	\$312,500
2014	*	*	*

* Petitioner’s expert prepared an appraisal report with opinions of value for the tax years 2012 and 2013 and did not offer an opinion of value for the 2014 tax year.

PETITIONER’S ADMITTED EXHIBITS

- P-1 Appraisal Report, Prepared by Wieme, Rende & Associates, P.C.
- P-3 Tyrone Township Zoning Regulations.
- P-4 Map – Livingston County Final Wetland Inventory.
- P-5 State of Michigan Wetlands Map Viewer, map of wetlands on subject.
- P-6 Aerial photograph of subject, parcel boundaries (Livingston County GIS).
- P-8 SEMCOG document “Residential Building Permits, Livingston County, 2000-2014.”
- P-9 SEMCOG document “Residential Building Permits, Tyrone Township, 2000-2014.”
- P-10 Rebuttal Documents – Respondent’s Land Sale #1.
- P-11 Rebuttal Documents – Respondent’s Land Sale #2.

- P-12 Rebuttal Documents – Respondent’s Land Sale #3.
- P-13 Rebuttal Documents – Respondent’s Land Sale #4.
- P-14 Rebuttal Documents – Respondent’s Land Sale #5.
- P-15 Rebuttal Documents – Respondent’s Land Sale #6.
- P-16 Rebuttal Documents – Respondent’s Land Sale #7.
- P-17 Documents – Respondent’s Land Sale #1.
- P-18 Documents – Respondent’s Land Sale #2.
- P-19 Documents – Respondent’s Land Sale #3.
- P-20 Documents – Respondent’s Land Sale #4.
- P-21 Documents – Respondent’s Land Sale #5.
- P-22 Documents – Respondent’s Land Sale #6.
- P-25 Petitioner’s Land Valuation Worksheet and Map of Petitioners Sales.
- P-26 “Rounds Played” data from Coyote Preserve, 2004-2012.

PETITIONER’S WITNESS

Michael Rende

Michael Rende, MAI, Michigan Certified Real Estate Appraiser, was admitted as Petitioner’s valuation expert in this matter. Mr. Rende testified that: (i) the subject was developed in conjunction with the neighboring residential development including 72 residential condominium sites with approximately 54 available and vacant lots, (ii) the subject is a public, fee golf course, 233 acres, a club house, and two maintenance buildings, (iii) the property generates income from green fees, cart rental, food service, pro shop sales, and banquet hall rental, (iv) the property includes approximately 70 acres of regulated wetland and approximately 30 acres of unregulated wetland, (v) the highest and best use of the subject property as improved, is for continuation of the existing use, (vi) the cost approach was not considered, given the difficulty in measuring the accrued depreciation and market participants do not consider this approach when investing in properties such as the subject, (vii) he prepared an income approach to value, which relied on actual income and expense information from the financial statements, and adjusted certain expense items downward to reflect market expenses, (viii) the subject is a

fully operational, stabilized property, with no indication of any management or structural issues, (ix) in determining the subject's income, he utilized the rate and rounds played for the subject and looked at the historical rounds played at the subject property, (x) he looked at the actual revenue of the subject property and based upon his prior appraisal there were no anomalies or problems with the subject's revenue stream, (xi) the revenue from the subject is within the narrow range of expected revenue and he utilized a pro forma estimate of revenue in his income approach, (xii) the actual expenses were also examined and found to be within industry standards or norms, (xiii) he utilized the actual expenses because the revenue has been consistent and the owner of this course is a professional golf manager, (xiv) the actual expenses were adjusted, as necessary, to fit within industry standards, (xv) a replacement reserve for equipment estimated replacement cost for equipment, and was included as an expense to account for anticipated major expenses, which in this case was set at \$44,655 annually, (xvi) he also included a golf cart expense of \$61,875, derived by examining the cost to lease and replace the carts concluding to a value of \$825 per cart for the subject's 75 carts, (xvii) he relied on national capitalization rates from RealtyRates.com which shows overall capitalization rates for public, daily fee golf courses and examined the band-of-investment method as well as older local sales to develop his capitalization rate, (xviii) the capitalization rate he used in his income approach was 14.0591%, (xix) after developing a true cash value for the subject property based on the income approach, he subtracted FF&E in the amount of \$250,000 for the 2013 tax year to determine his final opinion of the value of the subject real property, (xx) his determination of the value of the subject FF&E was based on the depreciated cost of the personal property located at the subject pursuant to the personal property statements filed for that year. Transcript at 18 – 152, 282 - 291.

RESPONDENT'S CONTENTIONS

Respondent contends that the true cash, assessed, and taxable values initially determined by Respondent for the 2013 and 2014 tax years at issue should be affirmed, based on the cost approach set forth on the property record card with support from local land sales. Specifically, Respondent contends that: (i) the value of the underlying land ranges from \$4,000 to \$5,000 per acre as supported by the sales of vacant land, (ii) the value of the property, including an income stream, cannot reasonably be less than the value of the land as vacant, (iii) if the income

approach is the best approach, the income stream should be added to the value of the underlying land, (iv) Petitioner's income approach improperly values the subject too low, ignores the gross income multiplier approach, and uses bank sales in the sales comparison approach, (v) less evidence was presented to the Tribunal in the prior case by Respondent, and (vi) the evidence provided regarding land sales and the cost approach support the assessment which should be affirmed.

As determined by Respondent's expert, the TCV, SEV, and TV for the subject property for the tax years at issue should be as follows:

Parcel Number: 4704-08-101-075

Year	TCV	SEV	TV
2013	\$2,571,000	\$1,285,500	\$708,559
2014	\$2,537,400	\$1,268,700	\$719,895

RESPONDENT'S ADMITTED EXHIBITS

- R-1 Subject Record Card (3 pages).
- R-2 Vacant Land Sales Livingston County, warranty deeds.
- R-3 Map – Location of Land Sales.
- R-4 Aerial Photograph of Subject Property.
- R-5 Parcel Map with Aerial Photograph.
- R-6 Aerial Photograph – Sale #7.

RESPONDENT'S WITNESS

Bruce A. Little

Bruce A. Little, State Certified Level IV Assessor, testified in support of the current assessments based on the property record card. He was not formally recognized or qualified to testify as an expert. He is not a licensed appraiser. He testified that: (i) the subject property was purchased in 2004 for approximately \$3.9 million, (ii) the subject property was originally part of a subdivision development which has 72 residential lots, (iii) the adjacent subdivision development has taken off since 2006 including 7 new building permits in 2013 and 5 building permits in 2014, (iv) the subject's true cash value cannot be less than its value as vacant land to be sold for development of 5 or 6, 40-acre parcels for residential development, (v) if the income

approach is used, the value of the land as vacant should be added to the value indicated by the “income stream” (vi) he did not develop an opinion of value by the income approach but indicated that he believed a gross income multiplier should be used, (vii) using the subject’s 2004 purchase price and gross income indicates a gross income multiplier of 3.45, (viii) the land value is developed for the township using land sales, (ix) the vacant land sales in Livingston County over the last three years indicate a lowest sales price per acre of \$4,430 which supports a true cash value for the subject, as vacant, of approximately \$1,025,000, (x) aerial photographs were submitted into evidence of the sales comparables to indicate the similarity of the subject and these comparables, (xi) the subject could be split by an investor into several smaller parcels, such as 10, 23-acre parcels, to sell for development at a much higher value than that derived by Petitioner’s income approach, and (xii) the assessment should be affirmed. Transcript at 152 – 220.

FINDINGS OF FACT

1. The subject property, known as the Coyote Preserve Golf Course, is located at 9218 Preserve Drive, Tyrone Township, Livingston County, Michigan.
2. The subject property was assessed for the tax years at issue as follows:

Parcel Number: 4704-08-101-075

Year	TCV	SEV	TV
2013	\$2,571,000	\$1,285,500	\$708,559
2014	\$2,537,400	\$1,268,700	\$719,895

3. The subject property is zoned RE– Residential Estate.
4. The subject property is located east of Linden Road and west of US-23.
5. The subject property’s highest and best use, as improved, is as a golf course.
6. The golf course on the subject property was completed and opened in 2002.
7. The subject property consists of a 233-acre, irregularly shaped parcel.
8. During the years at issue and for several years prior (2002), the subject was operated as an 18-hole, daily-fee golf course.
9. The golf course occupies approximately 160 acres.

10. Approximately 100 acres are within a regulated and unregulated wetland area. In addition to the low, wet areas, there are rolling hills with the high point varying 160 feet from the low point.
11. The property includes an 8,900 square foot club house, a 3,180 square foot storage barn, and a 6,000 square foot storage barn.
12. There is a significant quantity of furniture, fixtures, and equipment at the property related to the operation of the golf course, including tables, chairs, coolers, beverage dispensers, registers, display racks, computers, kitchen equipment, credit card machines, mowers, beverage carts, and approximately 75 golf carts.
13. The subject property was originally developed in conjunction with the adjacent 72 home sites. As of the end of 2012, approximately 54 sites were undeveloped.
14. Petitioner’s appraiser prepared an income approach utilizing Petitioner’s 2012 and 2013 income and expenses, information from the RealtyRates.com, and his personal knowledge and experience.
15. Petitioner presented the following pro forma income and expense statement:

2013		
Golf Course Revenue		
All Golf Revenue	\$842,276	
Food & Beverage Revenue	\$300,598	
Room Rental	\$2,500	
Total Revenue		\$1,145,374
Cost of Goods Sold		
Pro Shop	(\$36,049)	
Food & Beverage	(\$123,444)	
Gross Margin	\$985,881	
Expenses		
Wages	\$394,353	
Maintenance Equipment Fund	\$44,665	

Kitchen/Bar/Pro Shop Equipment	\$11,166	
Course Maintenance	\$108,447	
Utilities	\$82,321	
Administrative	\$138,023	
Insurance	\$24,647	
Management	Included in Wages	
Property Taxes	Included in OAR	
Reserves for Cart Expense	\$61,875	
Total Operating Expense		\$865,497
Net Operating Income		\$120,384
Capitalization Rate		14.0519%
Estimated Market Value (rounded)		\$855,000

16. Petitioner’s appraiser developed a capitalization rate based on the band of investment method, (Petitioner’s appraisal, p. 76-79). The appraiser referred to Realtyrates.com, which reported equity dividend rates for public fee golf courses in the range of 8.8% to 19.8% as of year-end 2011 and 9.7% to 22% as of year-end 2012. The average equity dividend rate as of year-end 2011 was 13.79% and 15.3% as of year-end 2012.

17. Petitioner’s appraisal report references overall capitalization rates reported from Korpacz Real Estate Investor Survey. This is national data derived from various types of “national grade” investment properties, not including golf courses. However, this data is offered in an attempt to demonstrate that “rates have increased over the past two years with a significant jump in investor expectation following the credit crisis which began during the third quarter of 2008.” P-1, p 77. However, for each of the six property types reported, the overall rates reported by Korpacz declined from the fourth quarter of 2011 to the fourth quarter of 2012. In general, the data shows that the rates increased from 2007, peaked in 2009, stabilized, then declined gradually through 2012. See chart of Overall Cap Rate Trends, P-1, p 77.

18. Petitioner’s appraisal report includes overall capitalization rates extracted from sales of 12 golf course properties for which income and expense data existed. See P-1, p 72.

These properties sold from 2002 to 2009, which the appraiser describes as “somewhat dated.” The range of indicated overall capitalization rates is 7.53% to 15.08%. The higher rates were from distressed properties and reflected the higher risk associated with those properties. Focusing on the sales during 2007 through 2009, the range of overall rates is 8.72% to 15.08%. It is evident that the highest rate is an outlier (the next highest rate from this data being 11.39% in 2004). The median rate of the sales 2007 through 2009 is 9.57%.

19. Petitioner’s appraisal report includes data from Realtyrates.com, which shows overall capitalization rates for public, daily fee golf courses, as of the fourth quarter of 2011 ranging from 7.27% to 17.58%. As of the fourth quarter of 2012, the rates ranged from 7.85% to 18.46%. P-1, p 73.
20. The tax millage rate applicable to the 2013 tax year was 41.0382 (dollars per thousand).
21. Petitioner’s appraiser determined the going concern value of the subject property to be \$855,000 for 2013 using the income approach.
22. Petitioner’s appraiser fully developed a sales comparison approach to value which analyzed 30 sales of golf course properties, including 3 resales, occurring between December of 2000 and April of 2012, with sale prices ranging from \$495,000 to \$7,200,000 (or \$27,500 to \$333,333 per hole). Of the sales that closed from 2008 through 2012, the prices range from \$495,000 (January 2009) to \$27,555,000 (April 2009). The highest sale price was the Grand Blanc Golf & Country Club, in Grand Blanc, Michigan, which is stated to be an REO sale. This price is markedly higher than the other sales. The next highest sale price is \$3,700,000 (March 2009) for the Walnut Hills Country Club, in Meridian Township, Michigan.
23. The Washtenaw Country Club in Ypsilanti, Michigan sold for \$1,000,000 in March of 2010, which included furniture, fixtures, equipment, deposits, leases, and a liquor license. The property is deemed to be overall superior to the subject. Although this property was sold by a bank, it was adequately exposed to the market.
24. The most recent sale was of the Rattle Run course in China Township that sold for \$550,000 in April of 2012. This course is a non-country club course with an 8,000

square foot clubhouse. This sale was an arm's length transaction; however, the price per hole of \$30,555 is at the lower end of the range.

25. Petitioner's appraiser concluded that the sales comparison approach supported a price per hole of approximately \$50,000 for the 2012 tax year. For the 2013 tax year, Petitioner's appraiser concluded the market showed little change and that the sales comparison approach again indicated a value of \$900,000.
26. Petitioner's appraiser determined the true cash value of the subject property to be \$625,000 for 2013, after reducing the reconciled going concern value of \$875,000 by an estimated FF&E value of \$250,000 based on "the personal property assessment." (Petitioner's appraisal, p. 90).
27. Mr. Rende credibly testified that during the tax years at issue, there was an oversupply of golf courses nationally and in Michigan, and that nationwide golf courses are closing at the rate of one every 48 hours. In 2013 there were 143 net closures of golf courses.
28. The total number of golfers nationally has fallen steadily from 36.7 million in 2001 to 25.3 million in 2013. This trend is consistent with Michigan's market.
29. Respondent identified six sales of vacant land that closed during the period November 2013 to August 2014, Respondent did not develop an opinion of value by the sales comparison approach to determine the true cash value of the subject property. Respondent's sale prices were not adjusted for significant dissimilarities, such as total acreage, location, or topography. Rather, Respondent offered an indicated range of land values, based on the average price per acre (calculated both with and without an apparent outlier), for a range of \$4,430 to \$7,075 per acre, or \$1,033,652 to \$1,650,810. The average price per acre was applied to the entire, 233-acres, without any reduction for the approximately 100 acres of wetland.
30. Respondent's Assessor suggested that the subject golf course would not sell for less than the underlying land. Furthermore, he stated his belief that if the income approach is to be used, the above indicated land value must be adjusted by adding a value derived from the income approach; however, he did not develop this approach in a valuation disclosure and did not testify to a specific opinion of value based on his theory.

31. Respondent's assessor established the current assessments by the cost less depreciation approach (adjusted for market conditions as indicated on the subject record card).
32. Respondent's Assessor determined the true cash value of the subject property to be \$2,571,000 for 2013 and \$2,537,400 for 2014, relying solely upon the cost less depreciation approach.
33. For the 2010 assessment, the Tribunal entered an order in *Golf Course Properties, LLC v Tyrone Twp*, MTT Docket No. 319618 and 324348 (a valuation dispute involving the subject property) reducing the subject's assessed value from \$1,608,200 to \$662,500. (The Tribunal rejected Respondent's estimate of true cash value of \$3,216,400 and determined that it was \$1,325,000).
34. In 2011, Respondent established the subject's assessed value as \$1,198,700, based on a true cash value estimate of \$2,397,400. There was no appeal filed in the Tax Tribunal for the 2011 or 2012 assessments.

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value. See MCL 211.27a.

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. 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 percent. . . . Const 1963, art 9, sec 3.

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 assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1).

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.” *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.” *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal is not bound to accept either of the parties' theories of valuation. *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985). “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.” *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991). In that regard, the Tribunal “may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination.” *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735a(2). The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.” *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990). “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.” *Jones & Laughlin Steel Corp, supra* at 352-353.

“The petitioner has the burden of proof in establishing the true cash value of the property.” MCL 205.737(3). “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party.” *Jones & Laughlin Steel Corp, supra* at 354-355. However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.” MCL 205.737(3).

The three most common approaches to valuation are the capitalization of income approach, the sales comparison, or market, approach, and the cost-less-depreciation approach.

Meadowlanes, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968). “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.” *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale*, *supra* at 276 *n* 1). The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984).

Highest and Best Use

It is noted that the Coyote Preserve Golf Course was the subject of a Final Opinion issued by the Tax Tribunal for the tax years 2005 through 2010, which resulted in a substantial reduction in the subject’s true cash value. For 2010, the true cash value was reduced from \$3,216,400 to \$1,325,000, which was based on an appraisal prepared by Michael Rende. The subject was valued based on its highest and best use as a golf course in that case. There is no persuasive evidence in this case to indicate that the highest and best use has changed.¹

Petitioner’s appraiser was asked by the client to appraise the property under the extraordinary assumption that the subject’s highest and best use is its current use. Notwithstanding this limiting instruction, the appraisal report includes a discussion that supports the reasonableness of this assertion, including the oversupply of vacant land available for residential development and the lack of demand for vacant, residential land during the years at issue. Nevertheless, he opined that, “[g]iven the total absence of demand for vacant land for alternative uses including single-family residential development for which the subject site is zoned, it is highly unlikely that any alternate use of the subject would be found to be financially feasible.” P-1 at 53. During testimony, Petitioner’s appraiser elaborated upon this discussion and

¹ Although the Court of Appeals has held that the Tribunal is required to respect the finality of a prior Tribunal decision, it also recognized that the Tribunal is not bound by MCL 211.30c. *Gatt v Marion Twp*, unpublished opinion per curiam of the Court of Appeals, issued February 11, 2014 (Docket No. 313656). Pursuant to MCL 205.735a(2), a proceeding before the Tribunal is original, independent, and de novo, and the Tribunal is required to determine true cash value based upon the specific facts, testimony, and evidence presented. See *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353, 483 NW2d 416, 419 (1992).

found that under the four elements of highest and best use, the subject would sell based on its current highest and best use.

Respondent's representative contends that there would be a market for the subject as vacant land for a residential development given its evidence of 40-acre residential parcel sales in 2013 and 2014. However, Petitioner's expert reliably testified that the adjacent residential development that was developed in conjunction with the subject golf course remained primarily undeveloped as of the effective tax dates. Transcript at 34-37. Although Respondent testified that more permits have been pulled to develop additional sites, the Tribunal finds that this is insufficient to show that the market demands additional residential development sites. The Tribunal finds Respondent's contention that the market supports a change in the current use, is not supported. As such, the Tribunal finds that the evidence and testimony support Petitioner's contention that the highest and best use is the subject's current use, as a golf course.

Cost Less Depreciation Approach

The Tribunal finds that the cost approach to value is not appropriate to determine the true cash value of the subject property for the tax years at issue. Respondent provided the cost less depreciation approach as it appears on the property record card. Respondent also submitted vacant land sales, discussed fully below, to support the nearly \$2 million land value. Petitioner's appraiser did not prepare a cost approach to value given the difficulty in measuring the accrued depreciation, but more importantly, because market participants do not consider this approach when investing in properties such as the subject. The Appraisal Institute cautions appraisers that the cost approach is less likely to yield a reliable value conclusion from an investment perspective, and is subject to difficulty in estimating physical depreciation, functional obsolescence and external obsolescence, and in determining land values, and as such, this approach is not reliable for the subject. Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: Appraisal Institute 14th ed, 2013) at 566 -568.

Sales Comparison Approach

The Tribunal finds that the sales approach is relevant given that a significant portion of the subject's value is in the land. There is evidence that some golf course properties have sold for

continued use as golf courses, and some have sold based on a change in highest and best use as vacant land for residential development. Petitioner's appraiser considered the sales comparison approach, utilizing sales of similar golf course properties. He analyzed 30 sales of golf course properties, including three re-sales, occurring between December of 2000 and April of 2012, with sale prices ranging from \$495,000 to \$7,200,000 (or \$27,500 to \$333,333 per hole). Of the sales that closed from 2008 through 2012, the prices range from \$495,000 (January 2009) to \$27,555,000 (April 2009). Petitioner's appraiser concluded that the sales comparison approach supported a price per hole of approximately \$50,000 for the 2012 tax year. As such, Petitioner's appraiser concluded the sales comparison approach again indicated a value of \$900,000 for the 2013 tax year.

Respondent's Assessor selected sales of large acre parcels based on his knowledge of activity within Tyrone Township, and he also obtained information regarding sales in the county from the County Equalization Department. He did not consider any sales outside Livingston County, which artificially limited the selection process, and excluded certain relevant sales that were introduced in rebuttal by Petitioner. Respondent's sales comparables are deficient in several respects. They are all substantially smaller than the subject parcel, and both parties agree that a downward adjustment would be required in order to reflect the principal that larger parcels sell for less on a unit basis than smaller parcels. "Size differences can affect value and are considered in site analysis. Generally as size increases, unit price decreases. Conversely, as size decreases, unit price increases." Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013) at 198. Respondent made no adjustment for size, but applied the unadjusted price per acre to the subject, which results in an over-stated value. Respondent made no adjustments for other differences such as location or topography. Several of Respondent's sale comparables were located in areas of Livingston County with higher population density, greater development activity (as exhibited by the number of permits for new residential construction), and distance to shopping and schools.

Most significantly, Respondent applied the average price per acre to the subject's entire 233 acres, overlooking the fact that approximately 100 acres are wetlands. Assuming, for the sake of analysis, that the wetlands were adjusted by 50% to reflect the limited utility attributable to the wetland status, this would indicate that 133 acres would be valued at \$4,400 per acre

(\$585,200) and 100 acres would be valued at \$2,200 per acre (\$220,200), which would indicate a true cash value for the entire 233 acres of approximately \$805,200. This does not take into account other differences or adjustments that would be needed. All of this indicates that the subject's true cash value, even assuming that it should be valued as vacant land, is less than \$805,200.

Assuming that the values indicated by these sales required no adjustment (which is not the case) Respondent did not estimate costs related to removal of existing structures or land improvements related to the golf course, opining without foundation that such costs would be minimal, and that some of the buildings could be retained for future development. In any event, under the most favorable assumptions, Respondent's land sales do not support the current assessed values. Taken at face value (excluding the admitted outlier) Respondent's land sales support a land value in the range of \$1,000,000 to \$1,400,000 (rounded), which requires the erroneous assumptions that the wetlands should be valued the same as the non-wetlands and that there is no cost to remove unnecessary structures and land improvements.

Finally, there is no evidentiary support for Respondent's theory that this indicated land value must be adjusted upward to reflect additional value related to the income stream generated under the current use.

Respondent's Assessor failed to credibly support and defend his conclusions of value utilizing the sales data. The Tribunal gives no weight or credibility to Respondent's assertions that were based on the unadjusted sales data. On the other hand, Petitioner's appraiser presented a reliable sales comparison approach with an indicated value of \$900,000 for the 2013 tax year.

Income Approach

The subject's use as an income-producing golf course indicates that the income approach is the most appropriate valuation method to use in determining the true cash value of the subject property for the tax years at issue. Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013) at 439.

Revenue

Petitioner's appraiser examined the historical income and expense statements of the subject property and found that the subject had stabilized income given the minimal deviation

over the four years examined, and because “the subject has been operated by an experienced and knowledgeable owner/operator.” P-1 at 66. Thus, Petitioner’s appraiser utilized the actual income (which was determined to be consistent with market income) to derive a pro forma summary of the subject’s revenue for the 2013 tax year. In addition to the revenue, Petitioner’s appraiser utilized the actual cost of goods sold to properly reflect the gross margin. The revenue and cost of goods sold utilized in Petitioner’s income approach is as follows:

2013		
Golf Course Revenue		
All Golf Revenue	\$842,276	
Food & Beverage Revenue	\$300,598	
Room Rental	\$2,500	
Total Revenue		\$1,145,374
Cost of Goods Sold		
Pro Shop	(\$36,049)	
Food & Beverage	(\$123,444)	
Gross Margin	\$985,881	

Although actual income and costs are not generally used in developing an income approach, Petitioner’s appraiser reliably testified and explained in the appraisal that the subject’s actual revenue was within the national standard. As such, the Tribunal finds that Petitioner’s revenue and costs are supported and reliable.

Expenses

Petitioner’s appraiser again looked at the historical income and expense statements for the subject property. He also compared the subject’s expenses with other golf courses and the profit margin published in the National Golf Foundation’s surveys. Petitioner’s appraiser found that the subject’s expenditure for wages and management fees at over 73 percent of gross revenue was above the high end range of the market. P-1 at 67. As such, he utilized a stabilized expense at 40 percent. *Id.*

Petitioner's appraiser also found that replacement reserves were necessary for the maintenance equipment, kitchen, bar, and pro shop equipment, and the golf carts. A "reserve" is defined as "[a]n appropriation from surplus funds that is allocated to deferred or anticipated contingencies." The Dictionary of Real Estate Appraisal (Appraisal Institute 5th ed, 2010), at 169. A "reserve for replacement" or "replacement allowance" is defined as "[a]n allowance that provides for the periodic replacement of building components that wear out more rapidly than the building itself and must be replaced during the building's economic life." Id at 168.

Petitioner's financial statements do not reflect any money set aside as a reserve. However, Petitioner's expert reliably testified that replacement reserves are typical and necessary to value the subject as a going concern under the income approach. He calculated replacement reserves for the subject's maintenance equipment, kitchen, bar, and pro shop equipment, and the fleet of 75 golf carts.

For maintenance equipment, Petitioner's appraiser developed a replacement reserve by estimating a \$400,000 cost of the equipment new and an average usable life of 10 years. This resulted in an annual reserve expense of \$44,665. P-1 at 68. For miscellaneous equipment, he estimated a present cost of \$100,000 with a remaining life of 10 years. This resulted in a sinking fund expense of \$11,166 per year. P-1 at 68. For the subject's 75 golf carts, he examined both the expense to lease the carts and to replace carts. Under a typical lease, he found an annual expense of \$800 per cart. He also concluded that the present cost is \$4,000 per cart with a remaining life of 5 years, or \$852 per cart. He concluded to a reconciled value of \$825 per cart to result in an annual replacement reserve of \$61,875 for the fleet of 75 carts. P-1 at 70.

In addition to wages and reserves, other expenses are incurred in the operation of the golf course including maintenance, administrative, and insurance expenses. Petitioner's appraiser examined historical maintenance expenses which ranged from 10.75% to 12.48% of gross margin. As such, Petitioner's appraiser stabilized the maintenance expense at 11% for a total of \$108,447 for the 2013 tax year. Petitioner's appraiser also examined historical utility expenses which ranged from 8.26% to 8.46% of gross revenue. Historical administrative expenses such as payroll taxes, professional fees, and office expenses were examined and ranged from 17.2% to 18.75% of gross margin. Petitioner's appraiser found that these expenses were a bit higher than national, and as such, concluded to a stabilized expense of 14% for the 2013 tax year. For

insurance expenses, Petitioner’s appraiser found that a 2% of gross revenue expenditure was reasonable for the subject.

Expenses		
Wages	\$394,353	
Maintenance Equipment Fund	\$44,665	
Kitchen/Bar/Pro Shop Equipment	\$11,166	
Reserves for Cart Expense	\$61,875	
Course Maintenance	\$108,447	
Utilities	\$82,321	
Administrative	\$138,023	
Insurance	\$24,647	
Total Operating Expense		\$865,497

The Tribunal finds that Petitioner’s appraiser has properly evaluated both the actual and market expenses for the operation of a golf course. Each expense developed is supported by Petitioner’s appraiser’s expert testimony and data in the appraisal. As such, the Tribunal finds that Petitioner’s expenses, including reserves, are supported and reliable.

Capitalization Rate

Petitioner’s appraiser selected an equity dividend rate of 14%. The appraiser noted that:

Selecting an appropriate equity dividend rate is somewhat subjective in that there is a dearth of market information which might be relied upon to support a particular rate. Nevertheless it is clear that these rates have increased over the past two years with a significant jump in investor expectation following the credit crisis which began during the third quarter of 2008. P-1 at 77.

This statement appears in the context of a chart of overall cap rate trends applicable to national grade properties (none of which are golf courses). As set forth in the Findings of Fact, this data does not indicate rising overall rates as suggested. Rather, in all cases, the rates declined from the fourth quarter 2010 to the fourth quarter 2012. The most relevant data is the equity dividend rates reported for golf course properties, which ranged from 9.7% to 22% as of the end of 2012, with an average of 15.3%. Based on this data, the appraiser determined that the “cash-on-cash”

rate is around 14%, and based on a 35% to 65% mortgage to equity ratio, the weighted equity dividend rate is 4.9%. The mortgage component was determined to be 7.23% for an OAR of 12.1%, rounded to 12%. Although caution must be taken before adopting an average rate from a wide range, the Tribunal finds that the appraiser's opinion is supported by reasoned analysis, which includes taking in to account the relatively higher risk related to an investment in the subject's market as of the end of 2012. Further, the selected equity dividend rate of 14% is slightly below the average. The final, tax-loaded capitalization rate of 14.0519% for the 2013 tax year is found to be reasonable and supported by the evidence. The application of the capitalization rate is as follows:

Net Operating Income	\$120,384 ²
Capitalization Rate	14.0519%
Estimated Market Value (rounded)	\$855,000

The Tribunal finds that Petitioner's appraiser has reliably established the subject property's value as a going concern at \$855,000 using the income approach.

Furniture, Fixtures, and Equipment

Furniture, Fixtures, and Equipment (FF&E) is defined as "[t]angible personal property plus trade fixtures and leasehold improvements." *The Dictionary of Real Estate Appraisal* at 249. In this case, the subject property contains a significant amount of FF&E, including maintenance, food and bar equipment, and golf carts. Petitioner's appraiser utilized the personal property statements to value the FF&E for each year appraised. For the 2013 tax year, he found that the depreciated value of the personal property was \$250,000 rounded. The Tribunal finds that this is an appropriate method and reliable value for the personal property which shall be deducted from the value of the subject as a going concern.

2013 Tax Year

Petitioner's appraiser reconciled his sales comparison and income approaches to conclude to a going concern value of \$875,000. The Tribunal finds that this reconciled value is supported

² Gross Margin – Expenses = NOI (\$985,881 - \$865,497).

by Petitioner's sales comparison and income approaches and is adopted as the value of the subject as a going concern. Deducting the \$250,000 of FF&E, the Tribunal finds that the 2013 true cash value of the subject shall be \$625,000.

2014 Tax Year

Petitioner's expert prepared an appraisal report with opinions of value for the tax years 2012 and 2013. However, the 2013 and 2014 tax years are at issue. Petitioner's expert did not offer an opinion of value for the 2014 tax year. As indicated above, Petitioner's appraiser did not value the subject for the 2014 tax year and Respondent's cost less depreciation approach using land sales that are not comparable to the subject is not reliable. As there are no comparables or other documentary evidence pertaining to the income approach on record to value the subject for the 2014 tax year, the Tribunal finds that the only evidence of market change is reflected on the subject property's property record card. The original assessed values indicated a decrease in assessment from 2013 to 2014 of 1.3 percent. The Tribunal finds that the property's assessment history is the best indicator of value for the 2014 tax year and applies the rate of market change from 2013 to 2014 to the 2013 value as determined by the income approach above. As a result, the 2014 true cash value shall be \$616,900 rounded.³ The Court of appeals has held that "[t]he MTT's highly logical approach of relying on the property's assessment history to determine TCV for tax year 2012 was clearly supported by competent, substantial, and material evidence on the whole record." *Allemon v Rose Twp*, unpublished opinion per curiam of the Court of Appeals, issued January 22, 2014 (Docket Nos. 313119 and 315306).

Motion for Costs

On December 17, 2014, Petitioner filed a Motion requesting that the Tribunal grant it costs associated with this appeal. Petitioner contends that Respondent's defense was frivolous and this case is similar to that of *Treetops v Dover Twp*, 23 MTT 599 (Docket No. 316763), issued September 5, 2012. The Tribunal finds that this case is distinguishable from *Treetops* and costs are not warranted. The Tribunal notes, however, that the Tribunal established the subject's

³ \$625,000 * 0.987 = \$616,875.

2010 true cash value at \$1,325,000 and that Respondent determined the 2011 true cash value to be \$2,397,400, which is an increase of 80%. Respondent adjusted the true cash value to \$2,178,000 in 2012, and raised it to \$2,571,000 in 2013 (which is under appeal in this case). This pattern gives the unavoidable appearance that the Tribunal's true cash value of \$1,325,000 was not used as the basis for the following year's assessment as required by MCL 211.30c(2), but rather, that the Tribunal's judgment was disregarded in favor of the assessor's "independent determination," which then became the new "basis" for the 2012, 2013, and 2014 assessments. The Tribunal does not believe this comports with the spirit or letter of MCL 211.30(c)(2). The Tribunal has reviewed the assessment history and finds that the increase in the 2011 assessment over the 2010 conclusion of value by the Tribunal seems excessive.⁴ MCL 211.30c(2) provides that:

If a taxpayer appears before the tax tribunal during the same tax year for which the state equalized valuation, assessed value, or taxable value is appealed and has the state equalized valuation, assessed value, or taxable value of his or her property reduced pursuant to a final order of the tax tribunal, *the assessor shall use the reduced state equalized valuation, assessed value, or taxable value as the basis for calculating the assessment in the immediately succeeding year.* However, the taxable value of that property in a tax year immediately succeeding a transfer of ownership of that property is that property's state equalized valuation in the year following the transfer as calculated under this section. [Emphasis added.]

The Michigan Court of Appeals, in *Smith v Forester Twp*, unpublished opinion per curiam of the Court of Appeals, issued June 19, 2014 (Docket No. 315480), held as follows:

MCL 211.30c(2) unambiguously provides that respondent "*shall* use the reduced state equalized valuation, assessed value, or taxable value as *the basis* for calculating the subject property's assessment in the immediately succeeding year." MCL 211.30c(2) (emphasis added). By using the word "shall," the Legislature made the assessor's duty to use the reduced values as "the basis" for assessing the property in the immediately succeeding year "mandatory and imperative." See *Michigan Ed Ass'n v Secretary of State*, 489 Mich 194, 218; 801 NW2d 35 (2011) ("The use of 'shall' in a statute generally 'indicates a mandatory and imperative directive.'") (citations omitted). [*Id.* at 5-6.]

⁴ The Tribunal set the 2010 true cash value at \$1,325,000 and the 2011 true cash value was increased to \$2,397,400.

Accordingly, Respondent was bound by the 2010 Tribunal decision and was *required* to use that determination as the basis for determining the 2011 assessment. However, that year is not before the Tribunal in this appeal, and as such, the Tribunal is unable to render a judgment as to whether the assessor failed to follow MCL 211.309c or if there was a change in market conditions in 2011 to justify the substantial increase.

Regarding the Motion, the Tribunal finds that costs may be recovered only pursuant to statutory authority. MCL 205.752 states that “[c]osts may be awarded in the discretion of the tribunal.” The Tribunal adopted this statute in its procedural rule TTR 209. This rule states that “[t]he tribunal may, upon motion or its own initiative, award costs in a contested case, as provided by section 52 of the Act, MCL 205.752.” TTR 209 (1). The rule itself, however, provides no guidelines or criteria by which the Tribunal is to measure whether costs should be awarded. In *Aberdeen of Brighton, LLC v City of Brighton*, unpublished opinion per curiam of the Court of Appeals, issued October 16, 2012 (Docket No. 301826), the respondent contended that the Tribunal “. . . may only award costs under [former] TTR 145 if the requesting party shows good cause or the action or defense was frivolous.” *Id.* at 5. The Court held that the language of former TTR 145, is unambiguous and its plain language indicates that a prevailing party may request costs and does not indicate that a showing of good cause or a frivolous defense is necessary. The Tribunal’s revised rule, TTR 209, no longer limits the award of costs to a prevailing party. Rather, the Tribunal may award costs to any party and Respondent’s contention that Petitioner’s Motion was prematurely filed is without merit. While the Michigan Court Rules and the Administrative Procedures Act provide the Tribunal with some criteria in determining whether an award of fees is appropriate, the decision to award fees is solely within the discretion of the Tribunal judge.

As indicated above, Petitioner contends that the Tribunal’s ruling in *Treetops* is similar to this case. In *Treetops*, the Tribunal held:

an inaccurate valuation based on erroneous but good faith assumptions can nonetheless be valid as an opinion of value. In these circumstances, while a party’s valuation may ultimately prove to be “wrong,” its defense based on that opinion is not necessarily “frivolous.” To conclude otherwise would mean that we should be awarding costs and fees routinely; we do not. . . . As a result, Respondent’s defense should not be considered frivolous if Respondent acted

reasonably and in good-faith in developing its assessment and its valuation in defense thereof even though it turned out to be incorrect in hindsight. [*Treetops* at 620 (citations omitted).]

In that case, the Tribunal had jurisdiction over the immediately succeeding year and Respondent relied upon the same methodology and nearly identical evidence as the prior case. Unlike *Treetops*, Respondent has not merely provided the same defense and evidence to support its value. More specifically, in *Golf Course Properties, LLC v Tyrone Twp*, 20 MTT 180 (Docket No. 319618) issued December 20, 2010, the Tribunal specifically found that “Respondent *failed to admit any evidence* or testify to any inappropriate issues found in Petitioner’s appraisal.” *Id.* at 184 (emphasis added). Here, Respondent has submitted evidence, specifically the cost approach and vacant land sales. As indicated above, the Tribunal has found that Respondent’s cost approach, including sales data to support the land value, and Respondent’s theory that the vacant land value must be adjusted upward for the income stream were not the best methods of valuing the subject. Respondent’s theory that the land value should be separately determined by the sales approach and added to a value determined by the income approach is unsupported by any legal authority or appraisal literature. Even if this approach is found to be frivolous, Respondent presented an alternative approach (vacant land sales) which could be interpreted to support a value greater than Petitioner’s income approach (although substantially less than the current assessments). Respondent failed to present the best evidence by using vacant land sales that are not comparable to the subject and not adjusted for differences. The vacant land sales arguably support the *rate* (\$4,374 per acre) used to value the land on subject’s property record card, although this does not account for the wetlands. Because, the possible range of values indicated by the sales data could be interpreted to support a true cash value greater than Petitioner’s contended value, the Tribunal finds Respondent’s defense is not without merit and an award of costs is not warranted in this case.

Conclusion

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that subject property is assessed in excess of 50% of true cash value, and that the most reliable indicator of value for the 2013 tax year was the income approach, and for 2014 the

income approach adjusted by the change in market conditions reflected in the subject's assessment. The subject property's TCV, SEV, and TV for the tax years at issue are as stated in the Introduction section above.

PROPOSED JUDGMENT

IT IS ORDERED that Petitioner's Motion for Costs is DENIED.

IT IS FURTHER ORDERED that the property's state equalized and taxable values for the tax years at issue are MODIFIED as set forth in the Introduction section of this Proposed Opinion and Judgment.

IT IS FURTHER ORDERED that the parties have 20 days from date of entry of this POJ to notify the Tribunal in writing, by mail or by electronic filing, if available, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions). There is no fee for filing exceptions. A copy of a party's written exceptions must be sent by mail or electronic service, if agreed upon by the parties, to the opposing party and proof must be submitted to the Tribunal that the exceptions were served on the opposing party. The opposing party has 14 days from the date the exceptions were mailed to that party to file a written response to the exceptions.

By: Thomas A. Halick

Entered: March 4, 2015
krb