

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

GORDON MANAGEMENT COMPANY,  
REGENCY PARK,  
Petitioner,

v

MTT Docket No. 318204

CITY OF GRAND RAPIDS,  
Respondent.

Tribunal Judge Presiding  
Kimbal R. Smith, III

**ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT  
AS TO TAX YEAR 2005**

**AND**

**FINAL OPINION AND JUDGMENT**

A hearing was held in the above-captioned matter on April 1, 2010. Petitioner was represented by Fred Gordon. Respondent was represented by Bernard Schafer, Assistant City Attorney for the City of Grand Rapids.

On February 16, 2010, Respondent filed a Motion for Summary Disposition pursuant to MCR 2.116 (C)(10) alleging that it was entitled to a Judgment in its favor as a matter of law in that Petitioner did not properly protest its 2005 assessment to Respondent's Board of Review prior to filing with the Tax Tribunal. Petitioner did not file a response to Respondent's Motion.

At the commencement of the April 1, 2010 hearing the Tribunal concluded on the record that Petitioner had in fact not properly protested its 2005 assessment to Respondent's March Board of Review and as a result the Tribunal was without jurisdiction as to tax year 2005 and granted Respondent's Motion for Summary Disposition as to 2005 only.

As to tax years 2006 through 2009 the Tribunal found that Petitioner had timely filed its annual motions to amend and, commencing in 2006, a protest to the March Board of Review for property classified as commercial (the subject) was no longer necessary and, as a result, denied Respondent's Motion for Summary Disposition as to those years.

Information relevant to the property's contested true cash, assessed and taxable values on the assessment roll is as follows:

Parcel Number	Year	TCV	SEV	TV
41-18-09-402-034	2006	\$7,516,800	\$3,758,400	\$3,682,800
41-18-09-402-034	2007	\$7,516,800	\$3,758,400	\$3,682,800
41-18-09-402-034	2008	\$7,516,800	\$3,758,400	\$3,682,800
41-18-09-402-034	2009	\$7,516,800	\$3,758,400	\$3,682,800

#### FINAL VALUES

Parcel Number	Year	True Cash Value	SEV	TV
41-18-09-402-034	2006	<b>\$7,104,419</b>	<b>\$3,552,210</b>	<b>\$3,552,210</b>
41-18-09-402-034	2007	<b>\$7,413,959</b>	<b>\$3,706,979</b>	<b>\$3,683,641<sup>1</sup></b>
41-18-09-402-034	2008	<b>\$7,304,496</b>	<b>\$3,652,248</b>	<b>\$3,652,248</b>
41-18-09-402-034	2009	<b>\$8,027,221</b>	<b>\$4,013,610</b>	<b>\$3,812,046<sup>2</sup></b>

#### THE SUBJECT PROPERTY

For tax years 2006 through 2009 this appeal involves one tax parcel identified as 41-18-09-402-034, which is classified as commercial.

The property is located at 2518 Normandy Drive, SE, Grand Rapids, Michigan, known as Regency Park Apartments. The property is situated on 16.04 acres of land and contains five apartment buildings and three townhome buildings built in 1969. These buildings contain a total

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<sup>1</sup> \$3,552,210 x 2007 CPI 1.037

<sup>2</sup> \$3,652,248 x 2009 CPI 1.044

of 250 units, together with a leasing center/clubhouse, building common area laundry facilities, carports, and an in-ground swimming pool. At issue are assessed, taxable, and true cash values for each of the tax parcels for tax years 2006 and 2009.

#### PETITIONER'S CONTENTIONS

Petitioner contends the subject property has been assessed at more than 50% of its true cash value for the years in question and that the taxable value has been improperly determined.

In support of its contention Petitioner submitted one exhibit (P1), an appraisal prepared by Professional Appraisal Services, Inc. dated January 19, 2009, signed by Daniel F. Essa, MAI, and Jack J. Johns, Certified General Real Estate Appraiser. The appraisal concluded to retrospective estimates of True Cash Value of the subject parcel and an additional parcel that is not included in this action (41-18-09-402-305) for each year properly before the Tribunal. The True Cash Values found in the January 19, 2009 appraisal were: Six Million Four Hundred Seventy Five Thousand Dollars (\$6,475,000) as of December 31, 2005 (2006 tax year); Six Million Four Hundred Seventy Five Thousand Dollars (\$6,475,000) as of December 31, 2006 (2007 tax year); Six Million Two Hundred Fifty Thousand Dollars as of December 31, 2007 (2008 tax year) and Six Million Seven Hundred Thirty Thousand dollars (\$6,730,000 as of December 31, 2008 (2009 tax year). P-1 was admitted into evidence without objection.

Petitioner called Jack J. Johns as a witness to testify in support and to explain the methodology contained in P-1. By stipulation he was qualified as an expert in the appraisal of real property.

In arriving at their conclusions of value Petitioner's appraisers considered all three traditional approaches to value but due to the age of the improvements on the parcel did not utilize the cost approach, but rather used the sales comparison approach and income capitalization approach applying the direct capitalization method. In arriving at its capitalization rates Petitioner considered the band of investment method, extracted sales method (OAR), and Korpacz market reports to arrive at an estimated market rate for each year before the Tribunal. These rates ranged from 9% as of December 31, 2005, to 10% as December 31, 2008, based upon the premise that market rates, according to Petitioner's sources, were rising during this period. To Petitioner's market rate was loaded 50% of the prevailing millage rate to arrive at an overall capitalization rate for each year. Petitioner's overall capitalization rate for each year under appeal was: 2005 (2006 tax year) 11.34%; 2006 (2007 tax year) 11.83%; 2007 (2008 tax year) 12.43%; and 2008 (2009 tax year) 12.40%.

At the commencement of the hearing the parties stipulated that Petitioner had utilized the following income and expense numbers in arriving at its estimates of value using the income capitalization method:

For Tax Year	2006	2007	2008	2009
Gross Income	\$1,917,636	\$2,002,404	\$2,015,374	\$2,068,608
Effective Gross Income	\$1,614,962 <sup>3</sup>	\$1,694,471	\$1,716,358	\$1,752,509
Operating Expenses	\$ 880,364	\$ 928,610	\$ 957,372	\$ 917,667
Net Operating Income	\$ 734,765	\$ 765,862	\$ 758,986	\$ 834,831

For Petitioner's Sales Comparison Approach a total of 15 sales were utilized. For tax year 2006 a 252-unit apartment complex located in Norton Shores constructed in 1976 with an 81%

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<sup>3</sup> Assumes 18% vacancy rate and collection loss for each year

occupancy rate; a 152-unit apartment complex in Adrian constructed in 1971 with a 86% occupancy rate; and a 170-unit apartment complex located in Mt. Pleasant built in 1976 with a 95%+ occupancy rate were considered.

For tax year 2007 three sales were considered: a 118-unit apartment complex in Mt. Pleasant constructed in 1970; a 120-unit apartment complex located in Holland built in 1972; a 315-unit apartment complex located in Kalamazoo with an 84% occupancy constructed in 1970, and a 100-unit complex located in Jackson constructed in 1982.

For tax year 2008 Petitioner again utilized the 118-unit complex in Mt. Pleasant, together with a 114-unit complex located in Meridian Township that was constructed in 1972, a 179-unit building located at 7700 E. Jefferson, Detroit, which was constructed in 1939 with renovations in 1989.

For tax year 2009 Petitioner again considered the 7700 East Jefferson Detroit property together with a 213-unit apartment complex located in Meridian Township, Lansing, which was constructed in 1968-1972 with a 90% occupancy rate, and a 312-unit project constructed in 1972, located in Lansing.

#### RESPONDENT'S CONTENTIONS

To support its contention that the property was properly assessed for all years under appeal, Respondent offered into evidence without objection three exhibits and called one witness, William A Bassford, a Certified General Appraiser, who was qualified as an expert in the

appraisal and valuation of real property by stipulation of the parties. Exhibits admitted into evidence were: R-A Valuation Disclosure/Appraisal, R-A1 Photos of the subject parcel; R-A2 Neighborhood and Plat Maps ; R-A3 Zoning Code and Map; R-A4 Project Financials and Rent Rolls; R-A5 Qualifications of Appraiser; R-B Indicated Values Using Price Waterhouse cap rate; R-C Average per unit values using Petitioner's arguably acceptable sales comparables.

The valuation disclosure/appraisal (R-A) concluded to a retrospective value conclusion (true cash value) for all tax years before the Tribunal of \$7,500,000. In arriving at its conclusions of value Respondent (as did Petitioner) considered all three common approaches to value but did not utilize the cost-less-depreciation approach due to the age of the project. Respondent utilized the Sales Comparison Approach and what it characterized as a stabilized direct capitalization approach.

In arriving at an estimate of value using the sales comparison approach Petitioner considered five sales: (1) a 241-unit apartment complex located in Kentwood, Michigan, which was constructed in 1978 and sold in November of 2005 for \$8,400,000 with an overall capitalization rate of 7.772%; (2) a 144-unit apartment complex located in Kentwood, Michigan, constructed in 1979-1986, which sold in March 2006 for \$5,200,000 with an overall capitalization rate of 7%; (3) a sale that occurred in March of 2006 of a 344-unit complex constructed in 1978 with a selling price of \$16,700,000 and an overall capitalization rate of 6.56%; (4) a March 2008 sale of a 188-unit complex constructed in 1986 for \$7,580,000 with a capitalization rate of 7.37% and (5) a January 2006 sale of a 252-unit property in Norton Shores (Petitioner's comparable #4) constructed in 1986 and sold for \$9,025,000 with a capitalization rate of 8.70%.

Respondent's expert explained the adjustments he applied to each of the sales that resulted in net adjustments of: Sale 1: negative 14%; Sale 2: negative 3%; Sale 3: 18%; Sale 3: negative 32%; Sale 4: negative 23% and Sale 5: negative 10%.

Having adjusted its comparable sales individually, Respondent concluded to an individual value per unit of \$31,000 for each year under appeal or \$7,500,000.

At the commencement of the hearing the parties stipulated that Respondent had utilized the following income and expense numbers in arriving at its estimates of value using the income capitalization method:

For Tax Year	2006	2007	2008	2009
Gross Income	\$2,160,976	\$2,160,976	\$2,160,976	\$2,160,976
Effective Gross Income	\$1,620,732 <sup>4</sup>	\$1,620,732	\$1,620,732	\$1,620,732
Operating Expenses	\$ 840,000	\$ 840,000	\$ 840,000	\$ 840,000
Net Operating Income	\$ 780,732	\$ 780,732	\$ 780,732	\$ 780,732

Respondent called William A Bassford to explain the methodology and data he employed in preparing Respondent's Exhibit A. He explained there is no better basis upon which to establish a capitalization than from actual sales of similar properties which he did by establishing overall capitalization rates from the five sales he employed for his sales comparison approach (See R-A page 480). He further explained for his income capitalization approach he used the "direct capitalization method" using stabilized income and expenses which resulted in the same effective gross income, operating expenses, and net operating income for all years under appeal. He indicated that in arriving at his income and expense numbers he had utilized and gave great

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<sup>4</sup> Respondent utilized a 25% vacancy rate

weight to historical income and expenses for the subject property and acknowledged that he had applied a 25% vacancy to the subject that was in excess of the actual vacancy rate and the rate applied by Petitioner for vacancy and credit loss.

#### FINDINGS OF FACT

The Tribunal, having considered all of the documentary evidence and testimony submitted by the parties and based upon the record before it, concludes:

The property is located at 2518 Normandy Drive, SE, Grand Rapids, Michigan, known as Regency Park Apartments, situated on 16.04 +/- acres of land and contains five apartment buildings and three townhome buildings built in 1969. These buildings contain a total of 250 units together with a leasing center/clubhouse, building common area laundry facilities, carports and an in-ground swimming pool, identified as tax parcel 41-18-09-402-034.

There were no “additions or losses” to the subject property within the meaning of MCL 211.27a(2) in any of the years subject to this action.

The inflation rate multipliers in effect during each of the relevant tax years were: 2006-1.033, 2007-1.037, 2008-1.023 and 2009-1.044.

The millage rate in effect for the subject property for each tax year under appeal was: 2006-46.7539; 2007-46.5383; 2008-47.7621; 2009-47.9318.

Petitioner's appraisal included tax parcel 41-18-09-402-034 (the subject property) and tax parcel 14-18-09-402-035 and presented no evidence as to what value, if any, parcel 41-18-09-402-035 contributed to its final value conclusion.

Both parties utilized the sales comparison and income capitalization approaches to value to arrive at their respective conclusions of value after having considered but not utilized the cost less depreciation approach.

Although Petitioner's expert adjusted each of the sales he utilized for each of years before the Tribunal (see sales adjustment grids located at pages 123-133 of P-1), he was unable to justify his adjustments based on "market based" evidence in response to inquires from the Tribunal and stated that many of the adjustments were based on his experience, but without market extracted information to support his adjustments. An example of what the Tribunal finds deficient in the expert's analysis is that for his sale comparable #12, the East Jefferson, Detroit property, he made no location adjustment. The Tribunal takes notice that the City of Detroit is approximately 200 miles from the subject property and overall conditions, both economic and market, are sufficiently different from the City of Grand Rapids that Petitioner's expert's failure to make an adjustment for location calls into question the reliability of his entire appraisal.

Petitioner's sales comparison analysis essentially used different sales for each year under appeal with one or two exceptions, and utilized absolutely no sales in the general geographic area of the subject property (Kent County). All of Respondent's sales comparables with the exception of its sale comparable #5 (Petitioner's sales comparable #4) were located in the same geographic area as the subject. The Tribunal finds Respondent's use of the sales it identified as comparable to be

reasonable and the adjustments made to these sales to be appropriate and supported by market based information.

The Tribunal finds that the overall capitalization rate of 8% that Respondent determined appropriate as a result of its market extracted sales (OAR's) to be a more accurate indication of rate than the methods utilized by Petitioner, especially inasmuch as the Tribunal has determined that the sales utilized by Petitioner in doing its sales comparison analysis, which are the same sales that Petitioner utilized in arrived it its market extracted rate, are not in fact comparable to the subject property. The Tribunal further finds, based on the evidence presented by Respondent, that the market extracted capitalization rate to be applied to the subject remained constant during all tax years before the Tribunal even though national rates may have fluctuated from period to period.

Respondent's expert personally inspected all of the sales he utilized for his sale comparables, unlike Petitioner's expert who, although he indicated he had been in one or more of the properties in the past, did not visit any of his sales as part of his appraisal assignment in this matter and was unable to satisfy the Tribunal that he was aware of the specific condition of the properties at the time of their respective sales.

The Tribunal finds that the \$250 per year per unit replacement reserve used by Petitioner to arrive at its effective gross income for each of the four years using the income approach to be better supported considering the age of the subject property than the \$200 per year per unit

replacement reserve amount determined and utilized by Respondent to arrive at its annual effective gross income amounts for its income approach.

#### APPLICABLE 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, as equalized, and that beginning in 1995, the taxable value is limited by statutorily determined general price increases, adjusted for additions and losses.

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.

MCL 211.27a (2) provides:

- (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. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.
  - (b) The property's current state equalized valuation.

The Michigan Legislature has defined "true cash value" to mean "the usual selling price."

As used in this act, "cash value" means 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); MSA 7.27(1).

“True cash value” is synonymous with “fair market value.” *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735 (1); MSA 7.650 (35)(1). The Tribunal’s factual findings are to be supported by competent, material, and substantial evidence. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 452 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.” (Citations omitted) *Jones and Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

“The petitioner has the burden of establishing the true cash value of the property.” MCL 205.737 (3); MSA 7.650 (37)(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 and Laughlin* at 354-355, citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77 (1976); *Holy Spirit Ass’n for the Unification of World Christianity v Dep’t of Treasury*, 131 Mich App 743, 752; 347 NW2d 707 (1984).

“There are three traditional methods of determining true cash value, or fair market value, which have been found acceptable and reliable by the Tax Tribunal and the courts. They are: (1) the cost-less-depreciation approach, (2) the sales-comparison or market approach, and (3) the

capitalization-of-income approach.” *Meadowlanes Limited Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991); *Antisdale* at 276-277, n 1. The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale* at 276, n 1. “Variations of these approaches and entirely new methods may be useful if found to be accurate and reasonably related to the fair market value of the subject property.” *Meadowlanes*, at 485, referencing *Antisdale* at 277, n 1. “It is the duty of the Tribunal to select the approach which provides the most accurate valuation under the circumstances of the individual case.” *Antisdale* at 277, citing *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170; 141 NW2d 699 (1966), aff’d 380 Mich 390 (1968).

Under MCL 205.737(1); MSA 7.650 (37)(1), the Tribunal must find a property’s true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal may not automatically accept a respondent’s assessment but must make its own findings of fact and arrive at a legally supportable true cash value. *Pinelake Housing Cooperative v Ann Arbor*, 159 Mich App 208, 220; 406 NW2d 832 (1987); *Consolidated Aluminum Corp v Richmond Twp*, 88 Mich App 229, 232-233; 276 NW2d 566 (1979).

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; 377 NW2d 908 (1985). 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. *Meadowlanes* at 485-486; *Wolverine Tower Associates v City of Ann Arbor*, 96 Mich App 780; 293 NW2d 669 (1980). A similar position is stated in *Tatham v City of Birmingham*, 119 Mich App 583, 597; 326 NW2d 568

(1982): “The Tax Tribunal is not required to accept the valuation figure advanced by the taxpayer, the valuation figure advanced by the assessing unit, or some figure in between these two. It may reject both the taxpayer’s and assessing unit’s approaches.”

#### CONCLUSIONS OF LAW

The central issue in this dispute is: what is the true cash (market) value of the subject property for tax years 2006, 2007, 2008 and 2009. This case requires the Tribunal to determine which valuation methods are useful to determine an accurate market value estimate of the subject property and to make an independent determination of the true cash value based upon its evaluation and analysis of the evidence.

The subject property is an income-producing property and the Tribunal, and both parties’ experts, concluded that the direct income capitalization was an appropriate method to value this property. The Tribunal concludes that the methodology employed by Petitioner in arriving at its conclusion of value using this approach is by all standards the accepted methodology whereas what Respondent characterized as its direct capitalization method in using stabilized income and expenses for all years under appeal is actually a discounted cash flow (DCF) method. Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 13<sup>th</sup> ed, 2008), p 499, defines “direct capitalization” as:

a method used to convert an estimate of a single year’s [emphasis added] income expectancy into an indication of value in one direct step, either by dividing the net income estimate by an appropriate capitalization rate or by multiplying the income estimate by an appropriate factor. Direct capitalization employs capitalization rates multipliers extracted from market data. Only one year’s income is used. Yield and value change is implied but not identified.

In this matter, Petitioner followed the definition as set forth above, Respondent did not.

The Tribunal, in determining its value using the income capitalization approach, accepts the income and expense numbers utilized by Petitioner as set forth above, which includes a \$250 per unit replacement reserve for reasons set forth in the Findings of Fact section of this Opinion and Judgment. The Tribunal, however, while not accepting Respondent's stabilized income and expense methodology, does accept and apply to Petitioner's annual Net Operating Income figures Respondent's market extracted rate conclusion of 8% for all years under appeal. The Tribunal believes this methodology results in a better indication or appropriate rate than that from the Korpacz survey or from the fatally flawed market extracted rates supplied by Petitioner. None of Petitioner's sales comparables which were the basis for Petitioner's market extracted analysis have been deemed by the Tribunal to be appropriate comparables.

To the 8% capitalization rate the Tribunal adds a tax load (50% of mill rate) for each year under appeal, which results in a tax loaded capitalization rate for each year of: 2006-10.34%; 2007-10.33%; 2008-10.39% and 2009-10.40%.

Applying the tax loaded capitalization rate to the respective net operating income amounts yields **a true cash value** for the subject for each year of: **2006-\$7,104,419 (\$734,597 NOI /10.34%); 2007-\$7,413,959 (\$765,862 NOI/10.33%); 2008-\$7,304,496 (\$758,986 NOI/10.39%) and 2009-\$8,027,221(\$834,831 NOI/10.40%).**

Although the Tribunal has considered Respondent's per unit sales comparison analysis, it believes that the best indication of the subject's value is the Income Capitalization Approach using Petitioner's Income and Expense information on an annual basis, applying Respondent's capitalization rate for reasons set forth above.

## JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax years at issue shall be as set forth in the *Final Values* section of this Final Opinion and Judgment.

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 finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, 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 the Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment. 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 this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 1995, at a rate of 6.55% for calendar year

1996, (ii) after December 31, 1996, at a rate of 6.11% for calendar year 1997, (iii) after December 31, 1997, at a rate of 6.04% for calendar year 1998, (iv) after December 31, 1998, at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999, at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000, at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001, at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003, at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004, at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005, at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006, at the rate of 5.42% for calendar year 2007, (xiii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, (xiv), after December 31, 2008 at the rate of 3.315 for calendar year 2009, and (xv) after December 31, 2009, at the rate of 1.23% for calendar year 2010.

This Opinion and Judgment resolves all pending claims and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: April 30, 2010

By: Kimbal R. Smith III, Tribunal Judge