

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

WCY Realty, LLC,
Petitioner,

v

MTT Docket No. 327937

Township of Fair Haven,
Respondent.

Tribunal Judge Presiding
Victoria L. Enyart

FINAL OPINION AND JUDGMENT

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

1. Administrative Law Judge Thomas A. Halick conducted a hearing in this case on May 12 and 13, 2009, and issued a Proposed Opinion and Judgment on October 7, 2009. The Proposed Opinion and Judgment provided, in pertinent part, “[t]he parties have 20 days from the date of entry of this Proposed Opinion and Judgment to notify the Tribunal in writing if they do not agree (i.e. exceptions). The exceptions are limited to the evidence submitted prior to or at the hearing and any matter addressed in the Proposed Opinion and Judgment.”
2. Petitioner filed exceptions on October 27, 2009. In support of the exceptions, Petitioner contends that:
 - a. “Once the ALJ determined the highest and best use (‘HBU’) adversely to WCY, he adopted the Township’s comps in their entirety, while dismissing contradictory comps of much lesser value, primarily on the basis that they were not used by WCY to establish HBU.”
 - b. “The Township used as comparables three residential property sales. The first two were sold in 2000 and 2001 for \$100,000 and \$275,000 respectively. The Township did not attempt to explain if the market in 2006 and 2007...was similar or not. [I]n order to compare to the subject site...the Township had to inflate the sales price of its comps...in order to try and make a comparison. Township’s Comp 3, by the Township’s own admission, was not a good choice.”
 - c. “At the Board of Review, WCY presented comparables that the Township did not use in its analysis. They were included in the Township’s proposed hearing exhibits and also presented by WCY at the hearing. . . . [T]he ALJ . . . stated that ‘the Tribunal is persuaded that the value of the subject is strongly influenced by the frontage and view of Wildfowl Bay...[h]owever, he failed to factor into his calculation of TCV any of the comps WCY offered.’”
 - d. “The ALJ did not utilize the Myers, Gotham, Black Drive, and Bay Shore properties as comps contradictory to those used by the Township... [T]hese four

comps should be analyzed and used regardless of the fact that three of them were not used to determine HBU. [A]ll but the Bay Shore Drive comp were included in its initial appraisal by Mr. Cook based on a residential HBU. ...Mr. St. Clair did state the 11 acre Bay Shore property was comparable. ...Mr. Cook's appraisal states that the Myers and Gotham Road properties are comparable, as well as the Black Drive property. Therefore, there is substantial evidence of a contrary front foot valuation than the Township's."

- e. "The ALJ only mentions Comps 101 and 104...ignoring the rest, relying on the Township's assessor who claims they are not relevant. The ALJ also...erroneously concludes that 'Petitioner's appraiser placed most weight upon Comp 101 and Comp 104.'
 - f. "[T]he ALJ makes no mention of the great disparity in credentials of the two witnesses. ...Petitioner calling Mark St. Clair, a Michigan licensed certified general appraiser; the Township relying on Valerie McCallum, a Level 1...assessor at the time of her assessment and 'appraisal.'"
 - g. "The list of exhibits admitted into evidence is inaccurate."
 - h. "The ALJ makes a finding that the property's HBU is residential-seasonal. The ALJ relies on third party hearsay...a 'caretaker' Elmer Naffien says he purchased the subject property for WCY primarily for the land and the building of new construction. The ALJ then goes on to apparently rely on the self-serving promotional DVD where the narrator states that the property could be 'used as a private retreat or for investment purposes. . . .'"
3. Respondent filed an exception on October 27, 2009. In support of the exception, Respondent states:
- a. "Respondent respectfully requests that the final Tribunal Order contains the correct spelling of its representative's name, *Laureen A. Birdsall*, rather than the incorrect spelling currently contained in the Proposed Opinion and Judgment as Lauren A. Birdsall."
4. On November, 10, 2009, Respondent filed a response to Petitioner's exceptions. The Respondent states:
- a. "Petitioner's Exceptions to the Proposed Opinion and Judgment simply rehash everything petitioner attempted but failed to prove at hearing." "We believe [the Proposed Opinion and Judgment by Judge Halick] was well thought out and gave appropriate weight and consideration to the evidence and the testimony given at hearing."

- b. “In its Exceptions..., petitioner states as follows: ‘The comparables the Township used (and approved by the ALJ) ignored comparables inconsistent with it[s] conclusion.’ ...Respondent Fairhaven [T]ownship did not ignore the ‘comparables inconsistent with its conclusion’. It evaluated [P]etitioner’s comparables, as well as sales of other properties, which were determined by the assessor as not comparable to the subject property and therefore not appropriate for use in developing a true cash value estimate for the subject. Petitioner’s own appraiser, L. Mark St. Clair could not establish adequate comparability of these sales in his testimony.”
- c. “Petitioner states that three of Respondent’s sales comparables were not comparable. Respondent contends that Assessor McCallum’s sales were comparable and appropriate for use in developing the true cash value of the subject land as contained in its assessment. Petitioner states that two of Ms. McCallum’s sales occurred in 2000 and 2001 respectively and that the township did not attempt to explain if the market in 2006 and 2007 was similar or not. This is not true, Assessor McCallum made time adjustments to those sales to account for market changes.”
- d. “Petitioner states that the township and the ALJ ignored or gave insufficient weight to other ‘comparables.’ Respondent states that petitioner failed to prove at hearing that the Township ignored any comparables. In fact, the Fairhaven Township Board of Review, to whom those comparables were first presented by WCY Realty, rejected them as not comparable. The township used due diligence by physically inspecting these properties and determined that they were not comparable for use in determining the subject’s true cash value. Respondent objects to Petitioner’s assertions that its own mathematical calculations...were made ‘using the Township’s analysis’... This was petitioner’s counsel’s own analysis, not the Townships and not that of petitioner’s appraisal witness. Petitioner’s counsel’s analysis is improper, is based on sales that are not comparable to the subject, is not an appraisal and incorporates incorrect methodology not used by either party.”
- e. “Petitioner states ‘the ALJ did not utilize the Myers, Gotham, Black Drive and Bay Shore properties as comps contradictory to those used by the Township, from which the TCV was adopted.’ Had the ALJ included WCY’s sales ‘COMPS’ in his analysis, the resulting true cash value would have been understated and improper.”
- f. “Petitioner argues about the alleged comparability of the sales used in its appraisal by Mr. St. Clair. Since these sales were not comparable to the subject property, they were not appropriate for use in determining the true cash value of the subject property. Furthermore, ...Mr. St. Clair’s Comparable #101 was a trust sale, is mostly marshland and has no direct shoreline on the bay; Comparable #102 was an estate sale to the State of Michigan, is former agricultural land with a pump

drainage system and no water access or lake frontage; Comparable #103, was a sale from a trust to the State of Michigan and is unbuildable due to wetlands restrictions; Comparable #104 was a sale from an estate to the State of Michigan and is designated wetlands declared unbuildable by the DEQ; Comparable #105 is predominately wetlands with no view of the shoreline or bay and no water access to the bay; Comparable #106 is a parcel that is agricultural wetland with no shoreline and is unbuildable; Comparable #107 is predominately wetlands and was purchased from an adjacent marina; Comparable #108 is positioned between a railroad right of way and marshland and is landlocked and unbuildable.”

- g. “[P]etitioner complains about the disparity in the credentials of the two witnesses. Respondent asserts that both Mr. St. Clair and Ms. McCallum testified as experts in this matter. Beyond that, what is relevant is the methodology each expert utilized in arriving at a reliable true cash value estimate for the subject property. Any disparity between the credentials of the two witnesses is irrelevant to the determination of Highest and Best Use. ...[C]redentials do not guarantee that one is correct.”
 - h. “With regard to the exhibits shown in the Proposed Opinion and Judgment – Respondent contends that the exhibits entered into the record at hearing were set forth in the content of the Proposed Opinion and Judgment, however, we agree with petitioner that the list in the Proposed Opinion is incomplete.”
 - i. “Petitioner states: The ALJ makes a finding that the property’s HBU is residential- seasonal. [T]he ALJ relies on third party hearsay...to the effect that a caretaker Elmer Naffien says he purchased the subject property for WCY primarily for the land and the building of new constructions. Respondent contends that Petitioner did not refute the claims of Assessor McCallum at hearing. Petitioner did not impeach Assessor McCallum with regard to her written statements contained in R-1 or in her testimony. Petitioner failed to produce Mr. Naffien, or anyone from WCY Realty as a witness to refute McCallum’s claim. Petitioner failed to prove that Mr. Naffien did not purchase the subject property at auction on behalf of WCY Realty as stated. Petitioner made no objections to this evidence at hearing.”
 - j. “Petitioner’s Exceptions, although not by specific motion, seems to be requesting oral arguments in this matter. Respondent states that there is no need for a motion, oral argument or any other post hearing action other than adjudication on the merits of this case. A two day trial was held in this matter and the Tribunal should render a decision based on that trial.”
5. The Administrative Law Judge properly considered the testimony and evidence submitted in the rendering of the Proposed Opinion and Judgment.

- a. Respondent has shown good cause to grant the exception, thereby correcting the spelling of their representative's name from Lauren A. Birdsall to Laureen A. Birdsall.
- b. Petitioner argues that the ALJ rejected their four comparables and only looked to Respondent's comparables. The four properties are identified as 3050 Myers Road, 5180 Gotham Road, Black Drive property, and Bay Shore Drive. Petitioner states that three of these comparables were used in Mr. Cook's appraisal, which Petitioner chose not to admit into evidence at the hearing. The Cook appraisal was not in evidence and was not considered in the Proposed Opinion and Judgment. Petitioner did not present any of these four properties as part of a properly conducted sales comparison analysis. The Myers Road property was included in Petitioner's Valuation Disclosure (Exhibit P-1), but was offered under a different HBU. The four properties identified below were included with Respondent's proposed exhibits. They were introduced at hearing as rebuttal evidence to challenge Respondent's comp selection. Petitioner's counsel examined Mr. St. Clair regarding the four properties and attempted to demonstrate that they did not support Respondent's land value. TR 88 – 96. Counsel asked Mr. St. Clair to confirm that an indicated value per front foot could be established by dividing the unadjusted sales price of the land and building by the front footage indicated by the MLS data. When counsel asked Mr. St. Clair whether this was a correct methodology, "As far as determining a front foot price?" Mr. St. Clair answered, "Yes." TR 93. However, as noted in the Proposed Opinion at page 37, during direct examination, Respondent's appraiser testified that **he could not offer an opinion of value based on the four proposed comps, "...for me to testify to value – do you understand, I can't do that sitting here and derive a value. I am not permitted to."** TR 94. The ALJ properly considered this evidence and declined to attempt to conduct an independent sales comparison method appraisal based on this evidence. The relevant portion of the Proposed Opinion is set forth below:

Petitioner argues that "using Respondent's methodology" that the indicated value per front foot is \$258 (which is simply the total sale price / frontage). Petitioner attempts to relate this evidence to the conclusion of value reached by its appraiser, but under a completely different theory. These properties were not presented as part of a sales comparison analysis. Petitioner's expert stated on the record that he could not offer an opinion of value based on these comps. In fact, Petitioner's own expert rejected these sales as comparables. The Tribunal is not convinced that the comps that were presented at hearing during the examination of Mr. St. Clair have frontage and lake access similar to the subject. Petitioner's attempt to offer these sales in support of its allegation of TCV is not persuasive. Proposed Opinion and Judgment, p 37.

The above paragraph adequately addressed Petitioner's claims pertaining to the four properties. The Tribunal further notes that Petitioner's method is flawed. First, as the ALJ found, the four properties are not demonstrated to be sufficiently similar to the subject in terms of the quality of the frontage and access to the lake. Therefore, they are not reliable indicators of value for a sales comparison analysis. Second, even if the land was proven to be sufficiently similar, the proper method for determining the land value is to subtract the estimated building value from the sale price. Petitioner did not prove that the buildings on these properties contributed no value. On the other hand, Respondent's land comps were "teardown" properties, and the ALJ properly analyzed those comps and determined that they supported Respondent's land value. There was no need to subtract the building value from the sale price in Respondent's analysis, because it was proven that the buildings that were demolished after the sale contributed no value to the land, and therefore, the sale prices represented the land value only. Proposed Opinion, p 30. The ALJ properly rejected Petitioner's evidence and argument.

Petitioner's exceptions request the Tribunal to consider the following four properties as comparables.

3050 Myers Road – This property was included in Petitioner's Appraisal Report as Respondent's comp 105, under the assumption that its highest and best use was as conservation land. Petitioner's expert, Mr. St. Clair, testified that he believed that the residence on this property contributed no value. He did not determine the price per effective front foot. He used price per acre as the unit of comparison. The Proposed Opinion lists Petitioner's Exhibit 3 (also R-12) and Petitioner's Exhibit 4, which describe 3050 Myers Road. TR 165. This property was also described at page 136 of Petitioner's Appraisal Report (P-1). This comp is listed on page 3 of the Proposed Judgment and referred to at page 37 as "R-13 (P-4)." It is apparent that the ALJ considered this property, but rejected it as a reliable indicator of value.

Respondent's witness, Valerie McCallum, testified that she rejected 3050 Myers Road as a comparable, stating that "... it does not have lakefront property as [the subject] does." TR 45.

Petitioner's expert witness, Mr. St. Clair, testified that the Myers Road property is "on the shoreline." TR 172. Mr. St. Clair did not state that the Myers Road property has water access of any type. Nor did he testify that the quality of the "shoreline" is similar to the subject. TR 172. He stated that the view of the bay from the residence on 3050 Myers Road was "Not good." TR 175. He also testified on cross examination that the house on the Myers Road property is "within 600, 700 feet" of the lakeshore. TR 219. This is quite different from the subject residence, which is situated on a strip of land approximately 180 feet in

depth (Proposed Opinion, p 7) with a direct, unobstructed view of Wildfowl Bay on one side, and the residence is located a few steps from the navigable canal with a boat launch on the other side.

5180 Gotham Road -- The Proposed Opinion lists Petitioner's Exhibit 5 (also R-14) and Petitioner's Exhibit 6, which describe a property that Petitioner refers to as 5180 Gotham Road. It is also identified as P-6 at page 37 of the Proposed Opinion. Exhibit P-5 is an MLS listing for 5180 Gotham Road, which does not state that the property has: frontage on water, water view, or water access. Petitioner cites no evidence from the record to prove that it does. Even if it were proven to have water frontage, it is not proven to be comparable to the subject.

Ms. McCallum testified upon personal knowledge that 5180 Gotham Road "...eventually abuts to the water" but that "It is not on the water and it does not have water access." TR 152.

The evidence does not support a finding of fact that either 3050 Myers Road or 5180 Gotham Road has boat access to Wildfowl Bay similar to that of the subject property.

Mr. St. Clair testified that Gotham Road "did not sell." TR 89. He further stated that the Gotham Road property, "...was not part of my analysis so relative to my findings, it would not be applicable...." TR 90. Nevertheless, Petitioner's exceptions urge the Tribunal to engage in a sales comparison analysis using the property.

Black Drive, Unionville, Michigan -- The Proposed Opinion identifies "Petitioner's Exhibit 11" under Documentary Evidence (Respondent's Exhibit 23), and refers to that property as a "vacant land sale, Unionville Road." It is apparent from review of Respondent's Exhibit 23 that the property referred to is located on Black Drive, Unionville, and not on "Unionville Road" as incorrectly indicated in the Proposed Opinion. This is one of the properties that Petitioner claims the ALJ failed to consider, which Petitioner identifies as "Black Drive, Unionville, Michigan," item B iii at page 6 of the exceptions.

Exhibit R-23 is an MLS document for "Black Drive," Unionville, cited in Petitioner's exceptions at page 6. It sold for \$82,000 in 2004. It was not advertised in the MLS document as having access to the bay. It was listed as 321' of frontage on Saginaw Bay. This land was vacant, and sold for \$255 per front foot, according to Petitioner's exceptions. The ALJ properly rejected this comp due to lack of proof that it had access to water, and was not offered as part of a sales comparison analysis with market-based adjustments for all significant differences.

At page 37 of the Proposed Opinion, the ALJ notes that, “The record includes evidence of three sales that were not included in either party’s sales comparison approach. The properties are identified as R-13 (P-4), R-14 (P-6), and P-11.” It is clear that the ALJ considered the 3050 Myers Road property, the Black Drive property, and the 5180 Gotham Road property, and rejected them as reliable indicators of value. Proposed Opinion page 37.

The Proposed Opinion at page 36 cites to Petitioner’s Post Hearing Brief, page 4, which demonstrates that the ALJ considered Petitioner’s argument that “...similar sized comparables with lesser values existed in close proximity to the subject site which were not considered by the Township.” Petitioner’s Post Hearing Brief, page 4, paragraph 10. This demonstrates that the ALJ considered the “similar sized comps” that were admitted into evidence.

The list of Documentary Evidence in the Proposed Opinion includes “Petitioner’s Exhibit 12 (also identified as Respondent’s Exhibit 21) as a “vacant land sale, Unionville Road.” It is clear that Respondent’s Exhibit 21 is an MLS document describing the Bay Shore Drive property that Petitioner refers to in the exceptions, item B. iv. It appears that the ALJ incorrectly listed the address of the property as “Unionville Road” which is the realtor’s address listed at the top of the MLS document (R-21). However, it is clear that the ALJ reviewed this document in rendering his opinion.

Petitioner asserts that Bay Shore Drive (page 6 of exceptions) (P-12) sold for \$145,000 in 2004. The MLS (www.realestate-mls.com) states that it has “waterfront: Bay” and has “10 acres plus five lots along a channel.” It also says “Privacy...your own peninsula to the Bay!!” Petitioner’s exceptions admit, “It is not clear how much of the property fronts the lake.” This property is not demonstrated to be sufficiently similar to the subject. There is no basis in evidence to estimate an unadjusted price per front foot (no frontage measurement).

Ms. McCallum testified based on personal knowledge that the Bay Shore Drive property was not “lakefront” but “marsh front.” TR 161.

Mr. St. Clair testified that the Bay Shore Drive property was similar in “site setting, similar site size. You have got direct water contact...” TR 91. However, this testimony does not establish overall comparability in terms of quality of frontage and does not establish access to the bay.

Therefore, the ALJ considered the four comps cited at page 6 of Petitioner’s exceptions. The ALJ noted that none of these comps were offered as part of a sales comparison method appraisal based on the subject’s true highest and best use. Proposed Opinion, p 37. Although Mr. St. Clair selected 3050 Myers Road as a comp, the appraisal report does not give it significant consideration, but rather

found that comp 101 was the “dominant comp” and gave “greatest consideration to” comps 101 and 104, which he referred to as the “4.073 acre transaction” and “the smaller unbuildable site.” Proposed Opinion, p 18. See Petitioner’s Appraisal (P-1), page 22.

The ALJ credited the testimony of Respondent’s witness that she had inspected all of Mr. St. Clair’s comps, including the 3050 Myers Road property and the Bay Shore property, and that she interviewed the previous or current owners and found the comps were not comparable to the subject. Proposed Opinion, p 12. The ALJ examined the documentary evidence, which does not prove that any of the properties have similar frontage, view, and access to the lake. There is some evidence that the Bay Shore Drive property has access to the bay through a channel, but the front footage is not in evidence. Further, the nature and quality of the channel is not established as a fact. Ms. McCallum’s testimony that the Bay Shore property had “marsh front” and was not a lakefront property supports the conclusion reached in the Proposed Opinion. TR 161.

The Proposed Opinion includes detailed Findings of Fact regarding the quality of the subject’s view, frontage on the bay, frontage on the canal, and boat access to the bay via the canal. The evidence did not support similarly detailed findings of fact regarding the four comps that Petitioner asks the Tribunal to consider, and it would be reasonable to conclude from the evidence that the subject is a unique island property that is overall superior to each of the four properties in terms of overall desirability of the land. There is insufficient evidence to allow the Tribunal to engage in a sales comparison method appraisal of the subject utilizing these four comps, and the ALJ properly declined to attempt such an analysis based on this record, as did Petitioner’s own appraiser. TR 94. The discussion at pages 36 and 37 of the Proposed Opinion demonstrates that the ALJ properly rejected the 3050 Myers Road property, the 5180 Gotham Road property, the Black Drive property, and the Bay Shore Drive property as reliable indicators of value.

The ALJ’s finding that Respondent’s three land comps (page 8 of Respondent’s Valuation Disclosure) were similar in terms of the characteristics of the land is supported by the record. Respondent’s vacant comp 2 is located on Valley Island very near the subject, has frontage on the bay, and has access to the bay via a canal. Proposed Opinion, p 12. Respondent also relied upon other properties located on Valley Island, which is immediately adjacent to the subject. Petitioner criticizes Respondent’s comps based on the dates of sale. However, it is noted that Petitioner’s appraiser selected comps with sales dates of 2000, 2002, 2003, 2006, and 2008, and gave “greater consideration” to the transactions that closed in 2000 and 2003. P-1, p 22.

- c. Petitioner also claims that the ALJ makes mention of the disparity between the qualifications of the witnesses. Although Ms. McCallum is not a licensed

appraiser that does not mean the ALJ should have given her testimony zero credibility. Ms. McCallum was a certified level I assessor and was competent to testify to the true cash value of residential property.

- d. Even though Petitioner states that the admitted exhibits were erroneously listed, they were still admitted properly and given due consideration. Petitioner's citations to the Proposed Opinion and Judgment were also incorrect. However, its arguments were still properly considered. See paragraph b. above.
- e. As stated in the Proposed Opinion and Judgment, the existing use of a property should continue as long as the use contributes to the total market value of the property, or until the return from a new improvement would more than offset the cost of demolishing existing structures and constructing new structures. Petitioner contends that the highest and best use of the subject property is for preservation and conservation use by the public. However, the evidence submitted by Petitioner does not support changing the current highest and best use.
- f. As discussed above, Petitioner did not provide sufficient reliable evidence to prove the contention of True Cash Value as required under MCL 205.737. In that regard, Petitioner has failed to show good cause to justify the modifying of the Proposed Opinion and Judgment or the granting of a rehearing. The Tribunal finds that the Administrative Law Judge properly considered the testimony and evidence submitted in the rendering of the Proposed Opinion and Judgment. "A Petitioner has the burden of proving by a preponderance of the evidence that the assessed true cash value of the subject property is too high." *Alhi Development Co v Orion Twp*, 110 Mich App 764; 314 NW2d 479 (1981). The Michigan Supreme Court has stated that, "[i]t is not enough for a party simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis of his claims, or unravel and elaborate for him his arguments." *Mitcham v City of Detroit*, 355 Mich 182; 94 NW2d 388 (1959). *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998).

IT IS ORDERED that the subject property's true cash, state equalized, and taxable values for the tax years at issue as set forth in the Proposed Opinion and Judgment are adopted by this Final Opinion and Judgment:

Parcel No. 3208-021-002-00

Year	TCV	SEV	TV
2006	\$876,000	\$438,000	\$405,865
2007	\$858,400	\$429,200	\$420,400

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 28 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, and (xiii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, (xiv) after December 31, 2008, at the rate of 3.31% 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 in this matter and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: January 27, 2010

By: Victoria L. Enyart