TO: All Assessing Officers

FROM: State Tax Commission

No. 22 - August 23, 1982
Opinions - Sales/Ratio studies
Assessment Reductions

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

TAXATION:

Effect of decision of Michigan Tax Tribunal lowering the assessed valuation of commercial property upon assessed valuation of governmental unit

Equalization--inclusion of additional sales in equalization study assessment/sales ratios

A county equalization department may include in the annual equalization studies assessment/sales ratio newly discovered sales data for the same period not previously included in the study.

The decision of the Michigan Tax Tribunal adopting the capitalization of income method to determine true cash value of commercial property resulting in a reduction in the assessment is to be reflected in a minus roll adjustment.

Opinion No. 6092

AUG 19 1982

Honorable Ralph Ostling
State Representative
The Capitol
Lansing, Michigan

You have requested my opinion on two questions, the first of which is:

> May a county equalization department change the percentage of assessment/sales ratio, once established, for 1979 and 1980 by adding more sales for such periods, thus lowering the percentage of ratio to determine the equalized valuation for 1982?

In answer to your first question, reference is made to OAG, 1981-1982, No 6007, p ____ (November 18, 1981), which examined the equalization of assessment process, noting that equalization studies are described in the Michigan Assessor's Manual, Chapter XVI, Equalization, including the latest supplements, which local assessing officials are required to use pursuant to 1962 PA 122;

MCLA 211.721; MSA 7.40. A new equalization study showing assessment/sales ratio based upon sales of taxable property for a 30-month period ending June 30th of the immediate preceding year is prepared for each calendar year. While the annual equalization study will, by necessity, contain some sales data that was used in a previous year, in light of the fact that the study includes a consecutive 30-month period, there is no prohibition against using additional relevant data for the period of the study if it becomes available to the county equalization department.

It is my opinion, therefore, that a county equalization department may include in the annual equalization studies assessment/sales ratio newly discovered sales data for the same period not previously included in the study.

Your second question actually involves three component questions, which will be rephrased and labeled 2a, 2b and 2c, respectively. They will be dealt with seriatim.

Question 2a is:

> How is true cash value of property for ad valorem taxation purposes to be determined?

The Court of Appeals, in Pantlind Hotel Co v State Tax Commission, 3 Mich App 170, 176; 141 NW2d 699 (1966), aff'd 380 Mich 390; 157 NW2d 293 (1968), held that there are three acceptable tests for determining the true cash value of property for ad valorem taxation purposes:

> "It is the opinion of this Court that until the legislature establishes other methods for determining true cash value, three acceptable tests have been and are recognized for such determination, namely: actual cash value determined by current selling price of the property or similar properties at private sale after negotiation; adjusted reproduction cost method; and capitalization of income method.

> "Which method is most appropriate in an individual case is to be determined by the assessing officer, or State tax commission on appeal, from the facts of that case and absent a showing of unfair result or discrimination, courts will not interfere with that judgment. The record before us clearly indicates sound reason for applying reproduction cost method in this instance to determine true cash value and it discloses neither unfair result nor discrimination."

Any one of these methods is an acceptable indicator of true cash value of the property for the purpose of taxation. Northwood Apartments v City of Royal Oak, 98 Mich App 721; 296 NW2d 639 (1980).

It is my opinion, therefore, that the true cash value of property for ad valorem taxation purposes may be determined by any of the three acceptable tests, namely, (1) the sales method, (2) the reproduction cost method, or (3) the capitalization of income method.

Question 2b is:

> Where a taxpayer's appeal to the Michigan Tax Tribunal included an appraisal study which considered only the capitalization of income method for determining true cash value of property, may that tribunal base its decision, as argued by the taxpayer, on the capitalization of income method?

In the example used, the taxpayer submitted evidence which included an appraisal study which considered only the capitalization of income method for determining the true cash value of property for ad valorem taxation purposes, while the township did not participate in the tribunal's hearing and submitted no evidence in support of its position.

In answer to question 2b, it is my opinion, therefore, that it would not be inappropriate for the Michigan Tax Tribunal to

base its decision on the capitalization of income method for determining true cash value, as urged by the taxpayer, although that method differed from that used by the township below, since the tribunal was free to use any of the three acceptable methods discussed in answer to question 2a, supra.

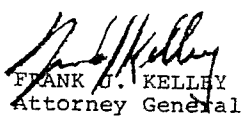
Question 2c is:

> Where the Michigan Tax Tribunal lowers the assessed valuation of commercial property based on the capitalization of income method for determining the true cash value of property for ad valorem taxation purposes, whereas other commercial property has been assessed on the basis of the sales method, how is the amount of the difference of assessed valuation to be reflected on the tax roll?

The manner of adjustment of the tax roll when there has been a successful appeal to the Michigan Tax Tribunal is covered in Chapter XVI of the Michigan Assessor's Manual at page 5, where it is provided:

> "Where there has been a reduction of an assessment by the State Tax Commission [now the Michigan Tax Tribunal] as the result of an assessment appeal, the general rule is that the reduction is a minus roll adjustment."

In answer to question 2c, it is my opinion that the reduction is a minus roll adjustment.



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