

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

RICHARD & LINDA WATSON,
Petitioners

v

MTT Docket No. 307559

THOMAS TOWNSHIP,
Respondent

Tribunal Judge Presiding
Judith R. Trepeck

OPINION AND JUDGMENT

Petitioners, Richard and Linda Watson, are appealing the true cash value, assessed value, state equalized value and taxable value of the subject property for tax years 2004 and 2005. A hearing on this matter was held before Judge Judith R. Trepeck on January 17 and 18, 2006 at the Tax Tribunal's Lansing, MI office. At the hearing, Petitioners were represented by David Kolat. Peter Goodstein represented Respondent.

FINAL VALUES

Based upon the evidence and testimony presented at the hearing the Tribunal has concluded that the true cash value, assessed value, state equalized value and taxable value for the subject property for the tax years 2004 and 2005 are as follows:

Parcel No. 28-12-3-14-4002-000

Year	TCV	AV	SEV	TV
2004	\$1,222,765	\$611,383	\$611,383	\$564,177
2005	\$1,222,765	\$611,383	\$611,383	\$577,153

TCV refers to True Cash Value, AV refers to Assessed Value, SEV refers to State Equalized Value, and TV refers to Taxable Value.

Petitioners filed their petition with the Tax Tribunal on June 4, 2004, seeking a review of Respondent's assessed values. The subject property is located in the Swan Valley School District.

Information relevant to the subject property at issue is as follows:

Year	AV	SEV	TV	Petitioners' TCV	Respondent's TCV
2004	\$634,000	\$634,000	\$634,000	\$765,000	\$1,751,813
2005	\$634,000	\$634,000	\$634,000	\$765,000	\$1,771,740

TCV refers to True Cash Value, AV refers to Assessed Value, SEV refers to State Equalized Value, and TV refers to Taxable Value.

PETITIONERS' CONTENTIONS

Petitioners contend that the subject property, parcel ID No. 28-12-3-14-4002-000, located at 8227 Summerfeldt, Saginaw, Michigan 48609, is assessed in excess of 50% of its true cash value.

RESPONDENT'S CONTENTIONS

Respondent contends that the subject property is not assessed in excess of 50% of its true cash value.

SUMMARY OF THE CASE

Petitioners contend that the house built on their property has a true cash value of \$765,000 for both the 2004 and 2005 tax years. Petitioners argue three issues before the Tribunal. The first argument is a factual error regarding the square footage of the house. Petitioners contend that the square footage should be 6,521 square feet. Petitioners also argue that functional obsolescence must be applied to the subject property's value due to the super-adequacy of the house. Petitioners contend the high value of the special features of the home along with the lack of marketability creates functional obsolescence. Finally, Petitioners argue that the economic conditions factor as applied by Respondent does not apply to the subject property.

Respondent contends that the true cash value of the subject property is \$1,751,813 for the 2004 tax year and \$1,771,740 for the 2005 tax year, as calculated by Thomas Township Assessor, Mark R. MacDermaid, CMAE III. Respondent contends the square footage should be 6,743, creating a difference from Petitioner of 222 square feet. Respondent argues there is no credibility, facts or weight to support the super-adequacy application to the subject property. Respondent also argues that the economic conditions factor is applicable to the subject property.

STIPULATED FACTS

1. The tax years in dispute are 2004 and 2005.
2. The subject property is properly classified as residential.
3. The Respondent issued a certificate of occupancy for the subject property in 2003, and Petitioners moved into the subject property in 2003.
4. Petitioners have paid all taxes due on the subject property for the tax years at issue.

5. For tax year 2003, Respondent determined assessed value of \$493,600, state equalized value of \$493,600 and taxable value of \$493,600 for the subject property.
6. For tax year 2004, Respondent originally determined assessed value of \$655,500, state equalized value of \$655,500 and taxable value of \$655,500 for the subject property.
7. Petitioners made timely protest of the 2004 assessment on the subject property to the Township Board of Review by personal appearance on March 4, 2004.
8. Pursuant to Petitioners' 2004 protest, the Thomas Township Board of Review determined assessed value of \$634,000, state equalized value of \$634,000 and taxable value of \$634,000 for the subject property.
9. For tax year 2005, Respondent originally determined assessed value of \$634,000, state equalized value of \$634,000 and taxable value of \$634,000 for the subject property.
10. Petitioners made their timely protest of the 2005 assessment on the subject property to the Township Board of Review by personal appearance on March 7, 2005.
11. Respondent used the Replacement Cost method adjusted by an economic conditions factor for determining the true cash value for the subject property for each tax year at issue.
12. In determining the true cash value of the subject property for each tax year at issue, Respondent did not apply any reduction for obsolescence.
13. The square footage living area for the first floor of the subject property is not more than 6,743 square feet and not less than 6,521 square feet.

EXHIBITS

The following exhibits were registered with the Tribunal prior to hearing:

Petitioners' Exhibits:

1. Assessment notices – 2004 and 2005
2. Thomas Township Board of Review Decisions – 2004 and 2005
3. Certificate of Occupancy for the subject property
4. Invoices for subject property improvements completed after December 31, 2002
5. Petitioners' First Interrogatories dated December 20, 2004, and Respondent's Answers to Interrogatories
6. Petitioners' Valuation Disclosure with all exhibits
7. Respondent's Valuation Disclosure with all exhibits
8. Text from Michigan Assessor's Manual, Chapter 14, regarding development of economic conditions factors
9. 2004 and 2005 record cards for properties used by assessor in developing 2004 and 2005 economic conditions factors
10. 2004 and 2005 record cards for residential properties in the same vicinity as the subject property

Respondent's Exhibits:

1. Respondent's valuation disclosure
2. Deed and/or property transfer affidavit(s) for subject property and properties listed in the Economic Conditions Factor studies
3. Map of Thomas Twp., section 14
4. Complete Report for 3275 Graham, printed July 28, 2005
5. Multiple Listing Service (MLS) statement re: 3275 S. Graham, presented by Joe Harris
6. Appraisal record card for 3275 S. Graham
7. Residential Sale Spreadsheet
8. Autocad sketch of subject
9. Revised appraisal card re: Subject Property
10. All of Petitioners' exhibits

TESTIMONY

Petitioners' Witnesses:

Testimony of Richard Watson

Petitioners' first witness was Richard Watson, owner of the subject property. Mr. Watson and his wife purchased the subject real estate in the spring of 2000 as vacant farm land. They purchased approximately 40 acres for the purpose of building a home. The intent in purchasing such a large parcel of land was to avoid any setbacks as Petitioners have two dogs and two children. Mr. Watson conceded that the purchase of the property exceeded what was actually necessary for the residence; however, the large piece of property was Mr. and Mrs. Watson's dream.

Mr. and Mrs. Watson started the plans for the residence using a computer architectural program and eventually gave the drawings to an architect to redraw, changing the original drawings. The

Watson family moved into the residence in approximately March 2003. When Mr. Watson was asked about the special features of the home, he stated:

It's stone. It has a big gym on the first floor; in retrospect, that probably should have gone downstairs, but I wanted it upstairs where we have no excuses not to exercise. It has a really different finish than most homes, its kind of old world rustic. There's barn beams in it. We built up all the counters a couple inches taller than normal because my wife and I are both real tall and we like to cook, so the kitchen counters are high. It's perfect for us but my sister who is only five-three said she couldn't ever own that home. (TR, Vol. 1, pp. 12-13).

The subject home is a ranch style house. Mr. Watson, after being asked the square footage of the home stated "[T]hat's under contention; I thought it was about 6,500." (TR, Vol. 1, p. 13). Mr. Watson did not take into consideration the potential resale of the home when he built it and stated "[I] knew I was throwing money away." *Id.*

The 2004 Notice of Assessment shows an original 2004 assessment of \$655,500 and the 2003 assessment of \$493,600. Mr. Watson chose not to protest his 2003 assessment. Mr. Watson stated a few reasons for not protesting his 2003 assessment including that he was busy, that he thought the Township was done with their assessment as the Watson's were building their home, and did not think the assessment was too high. During cross-examination, Mr. Goodstein continued his questioning of the witness regarding the assessment.

- Q. Mr. Watson, you stated that you were not paying attention when you got your initial assessment because you were building a house?
- A. You know, either that or we just moved. I don't know when I got it. I'm just saying that I was busy and the \$493,000 just didn't send me over the edge, I thought they were done.
- Q. Are you used to getting tax bills?
- A. Yes.
- Q. And you don't know when they show up?

- A. I couldn't tell you when it is, no.
Q. If you were still building a house, why, when you got that bill, did you think they were done assessing?
A. I'd never built a home before.
Q. When you say you developed the Hunters Ridge –
A. I developed the subdivision, I never built a house. I put the roads in, put the sewer in, and you get an assessment when you're done. (TR, Vol. 1, pp. 16-17).

On redirect examination, Mr. Watson stated with regard to the 2003 assessment and lack of appeal, that he is an automobile dealer, was very busy with work and was also developing subdivision parcels when his house was being built. These factors affected his reaction to the 2003 assessment notice.

Testimony of Randall Davis, SRPA/SRA

Petitioners' second witness was appraiser Randall Davis. Mr. Davis stated he has been real estate appraising since 1977, has owned his own appraisal company since that time and has been doing residential property appraisals in Saginaw County since that time. Mr. Davis prepared a valuation disclosure in connection with this appeal. This was done based on the cost approach and was a redo of the assessor's cost approach.

Mr. Davis stated that the subject property is located in a mixed land use area where there are sporadic subdivisions in an agricultural and wooded surrounding. The subject property is located approximately two miles north of the main highway going through Thomas Township and a major two-lane access road is immediately east of the subject. There is a Lutheran Church less than one block away and kitty corner from the subject property. A privately wooded area surrounds the subject directly behind and to the southwest. On the East is additional flat fallow

land. The subject property is also a fallow agricultural piece of land that is generally level but rising toward the back.

Mr. Davis went on to describe the subject property as an unusually large one-story home of approximately 6,521 square feet with a basement of approximately 4,589 square feet of which 2,443 is finished. The subject property is a good quality home with a stone exterior that was imported from Montana. The home has a distressed chestnut flooring which shows every knot and nail hole. All of the cabinetry in the home has counters set three inches higher than typical/standard height. The floor plan is unusual, as it is a “Y” design. At one end of the house is a heated gym/workout area which can be marginally considered a living area. Mr. Davis goes on to say:

The majority of the house has what would be known as the Tuscany motif, it’s very dark, old-world decorating, and very expensive to come by that type of decorating. ...I know it took a very long time to do this; it is a very unique type of design. As many homes that I have appraised in the upper price range, I have never seen this kind of décor in it ever. It is something truly on the cutting edge. (TR, Vol. 1, p. 24).

Q. So would you consider this property unique even for luxury or high-end homes in Saginaw County?

A. There are very few homes in Saginaw County that have this many square feet on one floor. We don’t see a house of this size and have the additional cost of that big of a foundation. (TR, Vol. 1, pp. 24-25).

Mr. Davis personally measured the exterior of the home by hand measurements, including the number of non-straight walls.

Q. [E]xplain what is contained ...in...your valuation disclosure.

A. On page 18 is the actual footprint of the home as it was taken from a blueprint that was supplied to me by the homeowner. The footprint, the layout of the home, was

- verified as being correct, and then I personally measured, via a tape measure, the exterior of the home to establish the actual dimensions of the home.
- Q. So you did these by hand measurements?
- A. That's correct. That is another one of the unique items of this home is the vast number of non-straight walls, which I'm very glad I did not have to draw personally. (TR, Vol. 1, p. 26).

Mr. Davis determined the square footage to be 6,521 square feet, amounting to 1,000 square feet less than the assessor's original determination. "We found several errors in the square footage of the original assessor's floor plan." (TR, Vol. 1, p. 27).

- A. This is the square footage he came up with after we pointed out an error in his methodology; 6,734 square feet is what he came up with.
- Q. And your calculated square footage is 6,521; correct?
- A. That's correct.
- Q. So we still have apparently a difference of 220 square feet in determination of square footage. How do you account for the 221 difference?
- A. We pointed out two areas...to Mr. MacDermaid... Number one was the open area in the foyer...there is no floor, and this is part of the stairwell area. ...[H]e should have been deducting [it] because it is not floor area. This is, I believe, about 50 square feet. The second area is...a stairwell going from the garage into the basement. This area is another approximately 50 square feet of area that he [assessor] considered to be living area, even though it was unfinished and unheated. The remainder of the square footage that is in contention deals with rounding. I utilized to the half-foot in my calculations; Mr. MacDermaid, I believe, according to the drawing, all his dimensions are to the full foot. (TR, Vol. 1, pp. 28-29).

Mr. Davis' contention of the difference in square footage calculations is based on the fact that there are no decimal points behind the feet indicators on the assessor's sketch.

In reference to the assessor's economic conditions factor (ECF), Mr. Davis stated that the subject property is referred to as a Class A single family home that is architecturally designed and built of the highest quality available. Mr. Davis did not apply an ECF in the valuation disclosure as it did not seem appropriate and would not be necessary.

- Q. And you stated previously you did not apply an economic condition[s] factor; correct?
- A. That's correct. You typically do not do that in a cost development process unless you are an assessor.
- Q. So if the assessor used various sales in developing an economic condition[s] factor, would you say the assessor made an error in using those sales?
- A. Well, the ECF is developed by sales from the same neighborhood. The information of these sales is tempered by the quality of these sales in terms of its similarity to the subject, size, quality, location, lot size, and any other amenity features that they may have. The key is the same neighborhood and area. (TR, Vol. 1, pp. 37-38).

Mr. Davis discussed the important features of all but four homes that were used in Respondent's analysis to determine the ECF for the subject home. The witness pointed out any similarities or differences between the homes used in the calculations and the subject home.

The highlighted features are as follows:¹

Homes used for 2004 ECF:

1. Two-story single-family home on a small lot, with brick and vinyl siding, classified as a Class B home.
2. Small ranch style home and much lower quality than the subject home, classified as either B or C.
3. Small one-story with a partial basement of less than 400 square feet and is a Class B or C.
4. One-and-a-half story home on a five-acre wooded lot. This is a unique style home with automatic shutter windows when the sun went down and the solar along with solar panels were not touching the roof. This house has been renovated to remove most of the features. This is a wood-sided home and has no comparison to the subject home regarding quality, age, and design or lot size.
5. Two-story, Class B home Victorian styled home with very small, cut-up rooms. This home included a large auxiliary building which included a shop/office with a cold storage facility.
6. One-story, 1,473 square foot river front home, Class C.
7. Two-story home on Apple Mountain Golf Course, in a different school district than the subject with different features, location, appeal, marketability, and design.

Homes used for 2005 ECF:

¹ The highlighted featured lists are a summary of testimony found in TR, Vol. 1, pp. 43-68.

1. One-story, 3,286 square foot home, located in a subdivision and is a Class B home.
2. Similar to subject home. This home is in a totally wooded area with a large pond, waterfall and stream. This home has the best quality materials, granite, inlay woods, vaulted ceilings and inlays in the wood ceilings. The home includes a hot tub, swimming pool, sauna, steam room, multiple wet bars, and a fireplace using a 500-pound fieldstone. The home includes an out building, a pole barn and a finished heated wrestling area. The lower level is 85 percent finished and the home is incomparable to any other homes in the area.
3. One-and-a-half story, 3,700 square foot home built in a wooded subdivision on an irregularly shaped lot, and is a Class B plus 10 home.
4. Single-lot, 2000 square foot home in a subdivision, which is smaller than the subject home, and is a Class B.
5. One-and-a-half story wood-sided structure with approximately 1,841 square feet built in 1987 with cedar siding and a solar design. This home was sold after being on the market for three years and is a B-C home.
6. One-and-a-half story home located on the Tittabawassee River with approximately 300 feet of river frontage and the home is approximately 2,136 square feet. This home is a Class B-C.
7. Three-street corner site with a total of 2,482 square feet and is a Class B-C home. This home is on a smaller lot, lower quality, and older than the subject home.
8. One-story home on a golf course with 2,612 square feet of living area. This house is smaller and has fewer features than the subject home.
9. One-and-a-half story, 3,312 square foot home on a golf course with artificial stone siding.
10. Home on a small subdivision lot and is approximately 3,000 square feet.
11. One-and-a-half story, 3,200 square feet home on a golf course in a subdivision in the Freeland School District and is a Class B plus 10 home.
12. One-and-a-half story, 3,835 square feet brick home with an unfinished basement. This home is in a subdivision on a golf course and is in the Freeland School District. It is a Class B plus 20 home and lacks the quality of the subject home.
13. One-and-a-half story, 2,892 square feet home on a golf course in a subdivision in the Freeland School District and is a Class B plus 10 home.

Mr. Davis stated there was only one home considered that was of the same properties as the subject home and there were no properties that were rural geographic properties with the same similarities as the subject home in reference to the determination of the ECF. On cross examination, Mr. Davis stated Hunters Ridge is a property that is three minutes away from the subject property by car. It is 6,575 square feet and sold for \$1.6 million. It is \$229.39 per square

foot, and when multiplied by 6,521 square feet, the total is \$1,495,852. This property is superior to the subject, but similar. It is on 10 acres, but the most prime 10 acres in Thomas Township. Hunters Ridge had a lot of superadequacy. Mr. Davis appraised Hunters Ridge and valued it for less than its selling price. On cross-examination, it was also determined that Mr. Davis appraised 16 Woodshire, as well, and this appraisal came in lower than the selling price.

Q. You said with respect to 16 Woodshire...anyone who was buying in the golf course area wouldn't consider just buying an undeveloped lot similar to the subject's, that this would be different kinds of buyers.

A. That's correct.

Q. Can you refer us to any literature that so states that?

A. No, this is all from personal experience dealing with individual buyers and owners of these homes. (TR, Vol. 1, p. 122).

As to functional obsolescence, and marketing large homes with unique features, the witness stated that the issue is the availability of other properties similar to the subject property and/or the availability of vacant land. This relates to whether there is an adequate amount of land available for the construction of a dream home versus buying another person's dream home. The principle of substitution is the idea that an owner would prefer to build their own home instead of buying a home that is already built.

Q. So in your valuation disclosure you applied the discount for functional obsolescence superadequacy for the subject property; correct?

A. Correct.

Q. How much was that discount?

A. Twenty percent.

Q. Can you tell us how you came up with 20 percent?

A. According to my research, the information that I came up with looking at Marshall Swift,² the availability of other homes in the area, Marshall Swift being a cost

² Marshall Swift Service is an accepted resource in appraisal practice.

manual, making a comparison between one-story homes and two-story homes, which as we pointed out before, the subject being a one-story home is excessively large as homes go in this area. Considering that the typical sales price in Thomas Township is \$138,000, the size of the homes are less than 2,000 square feet; the subject being three times larger. Again, we have a problem with marketing this kind of home. Again, we have to look at the subject as being overbuilt in terms of the quality features that we have. (TR, Vol. 1, pp. 74-75).

In calculating adjustments included in Petitioners' valuation disclosure, Mr. Davis modified the assessor's original worksheet utilizing his (Petitioners') new square footage calculations and restating a corrected value without applying an ECF. This resulted in a true cash value of \$935,549, less a functional obsolescence discount of 20 percent, resulting in a final true cash value of \$765,000 (rounded).

On cross-examination, Mr. Davis stated that he did not check his value of \$765,000 by doing a sales comparison approach. Mr. Davis contended that he did an appraisal on the subject property and that it was done in accordance with USPAP,³ but admitted the appraisal report did not honorably state whether the report itself was a summary or a restricted report. Mr. Davis admitted the appraisal report did not include a statement as to who was the intended user or the intended use. He did not do a detailed cost estimate on an item-by-item basis or an appreciation schedule but contended that he did his own cost approach as he used his own square foot numbers. He limited his rebuild of the assessor's cost to utilizing his square footage numbers and did not increase any indicators of value that the assessor used. For example, the multiplier was not increased to reflect stone, as the original multiplier was for brick. Mr. Davis stated "[I]t

³ Uniform Standards of Professional Appraisal Practice (USPAP) is an accepted standard in appraisal practice.

was beyond the scope of what I was supposed to be doing.” (TR, Vol. 1, p. 105). Mr. Davis admitted this was careless and is probably a violation of Standard 1.1C.

- Q. You took what you thought were the correct dimensions and you adjusted those by 105.15?
A. Yes, the assessor’s cost per square foot.
Q. - - but it’s true that it’s stone, right, the building?
A. Yes.
Q. So what would happen had you multiplied that by 109.90 instead of 105.15?
A. It would have been higher. (TR, Vol. 1, pp. 106-107).

Mr. Davis was questioned regarding superadequacy and his valuation disclosure regarding the superadequacy applied to the subject home.

- Q. [I]n the first paragraph on superadequacy you state that superadequacy is measured by the difference between reproduction cost new and replacement cost new; is that correct?
A. Typically that’s how it’s done, yes, that’s the way it’s done.
Q. You qualified the replacement or reproduction analysis for the home?
A. Just through Marshall Swift.
Q. Did you state it’s impossible to estimate the specific functional superadequacy of the subject without the detailed constructions costs...?
A. Yes.
Q. Why didn’t you get the detailed construction costs?
A. It was not in the scope of the process that we were involved in.
Q. So the scope of the process that you were involved with was really something other than doing a full USPAP compliant appraisal?
A. This is more of a consultation basis. (TR, Vol. 1, pp. 129-130).

When appraising a home not yet built, Mr. Davis does not use the assessor’s costs but instead compares the Marshall Swift per square foot values with what the contractor is attempting to indicate is the cost to build the home. This is to verify if it is a reasonable value or not on a per square foot basis. This is when there is no home; the cost of the home yet to be built is based on costs received from the builder, the contractor, the architect or the homeowner.

When asked about the calculation of the 20 percent functional obsolescence that was applied to the subject property, Mr. Davis indicated he calculated it by applying six percent for the difference between a one and a two-story home and the remainder was applied for the material quality of the home.

Q. This 20 percent obsolescence factor, how did you calculate it?

A. The 20 percent is a combination of a couple of things. Number one is the review of the cost difference between the one and the two-story homes, that was a good portion of it.

Q. The cost difference between a one and the two-story home?

A. Yes, it's six percent. When you have a 6,000 square foot home, this is just for the structure of the home. The other part was the material quality, and I know we're talking about replacement versus reproduction costs. The replacement costs, which the assessor uses, would assume a reasonable replacement assuming typical quality versus a superadequacy. (TR, Vol. 1, pp. 159-160).

Respondent's Witnesses:

Testimony of Terrell Oetzel

Mr. Oetzel was the first of Respondent's witnesses. He is familiar with USPAP as he has taught USPAP classes since 1980. He also has several state licenses and has been an editor of *The Appraisal of Real Estate*. Mr. Oetzel stated the evidence submitted by Petitioners' appraiser does not comply with USPAP standards. (TR, Vol. 1, p. 165).

If you look at it from an appraisal standpoint, there are some basic things that you have to have. The first thing is the scope of work; you have to lay out what it is that you were doing in that particular report; that's not spelled out in the report. It doesn't have to be in a specific section, but it has to be throughout the report so that you can understand what the report was. If it's an appraisal report, it didn't tell me what type of report, whether it was a restricted use report, a summary report, or whether it was a self-contained report. It did not tell me who the intended user of the report was. From a review standpoint, it

did not tell me the document that it was reviewing; it didn't give me the scope of work of the similar type of items that were lacking from a review. In a review you deal with the quality of the material that you have in the report; it did not lay that out in the report. As a consulting report, you're allowed to be more flexible, but if you're going to express an opinion of value, you follow Standard 1. Standard 1 was not followed either as an appraisal or consulting. [I]t appeared there was no sales comparison approach there...[this] is typically used in a single family type of report. If there is insufficient material, it should have been within the scope that there was insufficient material, and the cost approach was the only approach, and that was not laid out in the report. If the cost approach is the only approach, you either use as an appraisal or as a consulting in coming up with the value which refers to Standard 1. You have to be impartial, independent, and objective. The person writing the report did not do an independent land value, they accepted the land value that was part of the assessor's records. They did not do a separate independent analysis as to the depreciation from the standpoint it probably was physical, which was .99 percent, which I assume was physical because of the new facility, but that was not independently verified, that was simply accepted. It wasn't an independent study; it was simply to make a couple of corrections in the assessment records. (TR, Vol.1, pp.166-167).

Q. Is it your opinion that he should have done a sales comparison approach?

A. If not, he should have explained why a sales comparison approach was not applicable. (TR, Vol. 1, p. 171).

Mr. Oetzel stated the 20 percent superadequacy was not supported by market evidence as it would have been possible to take sales of properties making adjustments for land, depreciation and other factual data, and make adjustments to complete a reproduction cost, new. Mr. Oetzel referred to Petitioners' valuation report stating: "[I]n the report he simply said generalities about superadequacy and never laid out what was superadequate in that particular property and why it was superadequate compared to some other comparable or some other single family property that's in the market. So it was an estimate, but it lacked factual data." (TR, Vol. 1, pp. 170-171).

On cross-examination, when Mr. Oetzel was asked whether a fair statement was made in the valuation disclosure as to the consideration of the market and comparable sales approach, he stated "[T]hat's a general statement out of the textbook. If there isn't documentation, you didn't

do it. You need to explain to the reviewer so they're not guessing what you really did here.”

(TR, Vol. 1, p. 174).

When Mr. Oetzel was asked if appraising is an exact science, he replied:

[A]ppraising is not an exact science, that's correct. But appraisers are required to use correct techniques to arrive at depreciation, to arrive at any item that they're dealing with in the methods and techniques that they use, and that is one way to back up measuring depreciation. (TR, Vol. 1, p. 176).

- Q. So there is some concept in using judgment or common sense in coming up with fair market value when doing an appraisal?
- A. There's no question you use judgment from the time you walk on the site to the time you finish the report. *Id.*

Testimony of Mark R. MacDermaid, CMAE III

Mr. MacDermaid is the assessor of Thomas Township and part owner of the firm that does the assessing for the Township. He has a level three certification. Mr. MacDermaid prepared a valuation disclosure for this appeal using a replacement cost method and adjusted the cost using a market binding ECF. The square footage of the house was recomputed by putting the architectural plans on AutoCAD and that process changed some of the figures. Mr. MacDermaid altered the pages of his cost approach calculations related to pricing sheets for the two years involved.

Mr. MacDermaid claims the correct square footage of the subject home is 6,743 square feet. This measurement was determined by creating an APEC sketch using angles and calculations measured to the inch and then rounding to what the square footage should be for the valuation disclosure. A calculation manual was used to calculate the square footage as the specifics from

the manual say to measure the outside measurements of the house. Since the house is a one-story house, the living area is the same as the outside measurements. The stairway to the lower level was included in the measurements as the manual directs inclusion. “The steps go down, they’re part of the exterior foundation of the house, and they’re included as that area.” (TR, Vol. 2, p.13).

The cost of the subject home was adjusted as the home is made from stone not brick. Mr. MacDermaid agreed that the reason for differences in value is due to the reduction of the size of the subject home and changing the values from brick to stone. Mr. MacDermaid stated there was a dispute over the amount of finish in the basement, so for simplicity, the finished portion of the basement was separated from the unfinished portion.

Another valuation change was made due to the size of the septic tank. The original measurement was a 1,000 gallon tank, however, the architectural prints state the septic is a 1,500 gallon tank increasing the value by \$1,675.

The porches were valued differently as they were originally valued as living area, but they are in fact porches. Both porches have basements under them and the wine cellar is located under a porch.

The garage valuations changed as the second garage has a full foundation; the garage was finished and is heated. Both garages are 99 percent good. The total amount of the improvements

on 12/31/02 is \$910,000. The taxable value should increase by \$295,607. The assessed value at 12/31/04 is \$885,900 and the taxable value is \$818,661.

Mr. MacDermaid stated that an ECF should be applied to a new home or the value would be zero. The ECF was changed, due to the property's indicated classification, from agricultural to residential. The ECF factor was also changed to include sales through 12/31/04. New construction was not a factor for determining the ECF as the ECF is a calculation based on sales. Mr. MacDermaid did a market study to determine if the subject home has any superadequacy and determined it did not. The market sales take the superadequacy out meaning that as the houses get more expensive, buyers are willing to pay more, and these same houses generate a higher ECF.

Mr. MacDermaid stated “[W]hatever superadequacy he [Petitioners’ appraiser] claimed, he made no real test of the market to see if it was true. [T]hey didn’t allow for the fact that when homes are sold superadequacy is already involved, that is the purchaser’s opinion of that improvement as they stand.” (TR, Vol. 2, p. 27). Mr. MacDermaid disagreed with Petitioners’ appraiser regarding the 6 percent differential between a single story home and two story homes. “I don’t know that that means that a one-story house is worth less than a two-story house. All it is is a difference in the cost.” *Id.*

On cross-examination, Mr. MacDermaid stated the assessment changed three times since the original assessment. The original assessment had a land value of \$76,045 and is currently valued at \$250,000. The property was classified as agricultural and changed to residential after review.

Mr. MacDermaid stated that the subject should have changed from agricultural to residential for 2004.

The changes were made after January 3, 2006 as the township was allowed to make a partial inspection of the house, confirm the square footage calculations were in error and make the necessary revisions for errors such as the stone versus brick exterior. Mr. MacDermaid stated he did not ask for the plans and drawings for the subject home as lots of homes are inspected every year. The exterior is measured and information is gathered at this time of massive assessment, but it is not uncommon to find either more or less value.

When Mr. MacDermaid was asked about a Class A property close to the subject property which is 72 acres and has approximately the same true cash value as the subject, he admitted that if a valuation disclosure was done on that day the value for that property would probably be higher. "I would guess that if we did a valuation disclosure for this property as of that day, not using the mass appraisal technique that we set the roll on, you would have a higher value." (TR, Vol. 2, p. 64). Mr. MacDermaid stated this does not mean the first assessment is never correct but if a separate valuation disclosure was done, it may be different.

Q. Are you acknowledging that the first assessment is never correct?

A. No, I haven't done a separate valuation on this disclosure. It may very well be the best value for this property. At this point I would assume it would. But if we did a separate valuation disclosure, it might be different. (TR, Vol. 2, p. 65).

For the 2004 ECF analysis, the study period used had a starting date of 4/1/01 and ended on 3/21/03, which was a 24-month study. The basis in the development of the ECF was higher

quality homes. These homes were used to develop an ECF for the subject property. For the 2005 ECF analysis, the study period used had a starting date of 4/1/02 and ended on 12/31/04. This study was a 32-month study. Mr. MacDermaid stated that although a 24 month study is standard and a shorter or longer period would not be standard, this 32-month study was necessary to determine an ECF that coincides with the equalization period.

A property that sold for \$1.6 million in 2004 was used in the ECF study, but was documented in the ECF calculations as sold in August 2003. Mr. MacDermaid admitted that if the 2005 ECF analysis was limited to 24 months, the property that sold for \$1.6 million was one of three properties that would not have been included. Two of those three properties included in the study are the most expensive sales used in the overall ECF calculations. A 1,400 square foot, Class C property that sold for \$149,000 was also included in the ECF calculations. Mr. MacDermaid stated the property is not an exact comparable to the subject but it did have the effect of lowering the overall ECF that was applied.

Q. I'm going to read from the Assessor's Manual, page 422 that states; "[A]s always, the validity of any ECF analysis is dependent upon the availability of the sufficient arm's length sales of properties which are typical of the group being analyzed."

A. Agreed.

Q. Do you believe a sale of \$149,000 is typical for the subject property?

A. No, it would not be. (TR, Vol. 2, p. 79).

When Mr. MacDermaid was asked how many properties used in the ECF analysis were considered Class A properties, in the same neighborhood as the subject property, and similar in size to the subject property, he stated only one and referred to Hunters Ridge.

- Q. Are you claiming that the property in Hunters Ridge is in the same neighborhood as the subject property?
- A. [N]ot the same ECF neighborhood, other than the valuation. It certainly is comparable in location as the subject property, yes.
- Q. But it's not in the same neighborhood.
- A. It is in the same neighborhood as the subject parcel. If you're talking geographically, Hunters Ridge to Mr. Watson's house, no.
- Q. It is not in the same neighborhood really, is it?
- A. It is in the same neighborhood, not the same development. If we could use that same sale in the same development, nobody would be able to use that sale for a comparison for anything other than Hunters Ridge, and I'm sure it gets used by appraisers frequently other than Hunters Ridge.
- Q. Isn't that what an economic condition[s] factor does?
- A. An economic condition[s] factor doesn't have to be just a development. There are lots of developments every year that have no sales. You have to have sales to set it, so you have to expand your neighborhoods, and that's how it's done throughout the state.
- Q. For your analysis of the ECF...it looks...that all you...did was plug[ged] in three ECF categories and asked for the sales for those years and used all of the sales.
- A. Correct.
- Q. ...[W]hen you had this information spit back to you as a computer printout, did you go back and look at any of those properties and determine whether they were appropriate or not?
- A. Yes, I did.
- Q. Did you throw any of them out?
- A. I did not throw any of these out. These are the sales we used, yes. Sales are thrown out prior to the printout.
- Q. I'm going to read...from Chapter 14 of the Assessor's Manual. "Care must sometimes be taken to limit the size of the ECF area so as not to encompass neighborhoods which do not belong together. This could lead to an ECF which properly values the ECF area as a whole but incorrectly values the neighborhoods which make up the whole." Isn't that exactly what you're doing here? You're creating an ECF area over three separate neighborhoods, in my opinion.
- A. That's a fact, yes. Then you have to verify and look at the sales and see what effect it has on that when you're done. (TR, Vol. 2, pp. 80-83).

On redirect examination, Mr. MacDermaid was asked:

- Q. Would you explain why an equalization gets 24 months, and in this case, which was not an equalization appeal, you elected to go beyond that period?
- A. Well, I've done many appeals in front of small claims, appraisals and analysis for full tribunal, and we use the statutory definition of 12/31 of whatever year we're dealing with and not the equalization year.

- Q. So it's your testimony that you ran the second year out more than 24 months to match the tax day for this appeal?
A. That's exactly what I did. (TR, Vol. 2, p. 107).

APPLICABLE LAW

Standard of Review

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 is transferred. When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963, Art IX, Sec.3.

The 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).

"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).

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 Dept 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 & 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(2); *Meadowlanes Limited Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 483-484; 473 NW2d 636 (1991). “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 & Loughlin, supra* 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 Dept of Treasury*, 131 Mich App 743, 752; 347 NW2d 707 (1984).

The Michigan Supreme Court has acknowledged that the goal of the assessment process is to determine “the usual selling price of a given piece of property between a willing buyer and a willing seller.” *Meadowlanes, supra* at 484, quoting *Washtenaw Co v State Tax Comm.*, 422 Mich 346, 363; 373 NW2d 697 (1985). In determining a property's true cash value, Michigan

courts and the Tax Tribunal uniformly recognize the three traditional valuation approaches as reliable evidence of value. *Meadowlanes, supra*, at 484-485.

The three most common approaches to valuation are the cost-less-depreciation approach, the sales comparison or market approach, and the capitalization of income 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); *Antisdale, supra*, at 276. The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale, supra* at 277, 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, supra* at 485, citing *Antisdale, supra* at 277, n 1. The Tribunal has a duty to determine the appropriate method of arriving at the true cash value of the property, by utilizing an “approach which provides the most accurate valuation under the circumstances of the individual case.” *Antisdale, supra* at 277, citing *Pantlind Hotel, supra* at 176.

Under MCL 205.737(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).

However, all approaches must be used if feasible. *Meadowlanes, supra* at 485. "All three approaches should be used whenever possible, and an appraisal which disregards an approach by mere statements and without research justifying nonuse is considered incomplete ... [t]he ultimate goal of the valuation process is a well-supported conclusions that reflects the study of all factors that influence the market value of the subject property." *Id.* at 485-486.

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. *Id.* 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; 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."

FINDINGS OF FACT AND APPLICATION OF APPLICABLE LAW

ISSUES PRESENTED

The ultimate issue to be decided in this case is the true cash value of the subject property on the relevant valuation dates. The parties agreed to use Respondent's replacement cost method. The

Tribunal will determine findings on the three issues at hand in order to make a determination of true cash value.

1. Square Footage
2. Functional Obsolescence
3. Economic Conditions Factor

Based upon relevant, material and credible evidence presented by the parties at the hearing held in this matter on January 17 and 18, 2006 the Tribunal finds:

1. The subject home at issue (28-12-3-14-4002-000) consists of a one story house of 6,621 square feet situated on 40 acres with an attached garage, partially finished basement and an additional garage.
2. The tax years at issue properly before the Tribunal are 2004 and 2005.
3. The subject property is located at 8227 Summerfeldt in the City of Saginaw, in Swan Valley School District.
4. The highest and best use of the subject property is residential.
5. The Tribunal finds that due to inconsistencies and unreliable indicators of value, neither Petitioners nor Respondent has met the burden of proof. Therefore, the Tribunal makes its own independent determination of value.
6. The Tribunal finds the cost approach is the most appropriate method for determining the value of the subject property.

The Tribunal's reasoning in its determination of value, follows.

The Tribunal will determine the proper square footage of the subject property. The Tribunal will also analyze the primary issues leading to a conclusion of the subject property's true cash value including whether functional obsolescence applies. Lastly, the Tribunal will determine whether the economic conditions factor is applicable to the subject property, and if so, in what amount.

Square Footage

Petitioners contend the square footage of the home is 6,521 square feet and Respondent contends the subject home is 6,743 square feet. This leaves an issue regarding 222 square feet.

	Petitioner	Respondent	Difference
House	6521	6743	222
Basement	4589	4630	41
Garage	1398	1341	57
Garage	1980	1980	0

Petitioners point out the discrepancy in three areas regarding different calculations between Petitioners' appraiser and Respondent's assessor. These three issues are: (i) an open area in the foyer amounting to approximately 50 square feet, (ii) a stairwell going from the garage to the basement amounting to approximately 50 square feet, and (iii) the difference due to rounding methodology between half-foot calculations and full foot calculations.

The Tribunal does not find Petitioners' argument for the reduction in square footage regarding the foyer area and the stairwell compelling. However, this court does find compelling Petitioners' argument for reduction in square footage due to differences in rounding.

Petitioners submitted limited evidence regarding the difference in calculations in the foyer area stating there is no floor in a portion of the foyer area but the square footage is instead part of the open stairwell that should not have been counted as a living area by the assessor. Mr. Davis stated the following: "[N]umber one was the open area in the foyer, which you can see on my

drawing to be open, there is no floor, and this is part of the stairwell area. Outside of the steps itself, that is totally open, no flooring, and visible from the basement up to the ceiling of the first floor.” (TR, Vol.1, p.29). The Tribunal finds this to be in error. The open foyer area services the living space in the subject home. Mr. Davis pointed out that the foyer, limited to 50 square feet, lacks flooring. However, as the foyer services the living space in the home, the foyer area must be included in the total square footage for the subject home. Michigan State Tax Commission, *Assessor’s Manual*, vol. 1, part 1,2,3 (2003).

The second area of square footage in dispute regards the stairwell leading from the garage directly into the basement. The evidence submitted by Petitioners’ appraiser was limited to stating, “[T]here is no access to this stairwell from the home itself, it is accessed only from the garage and into the unfinished portion of the basement.” (TR, Vol. 1, p. 29). The Tribunal is aware that a stairwell that does not service the living space should not be included in the total square footage calculations for the subject home. A stairwell of this type should be deducted from the overall square footage of the home. However, the value of the stairwell should be added back under the cost approach. The value of the stairwell can be considered a breezeway when including the value in the overall cost. As Petitioners limited their evidence to why the 50 square feet should not be included, the Tribunal finds that Petitioners’ deduction of the 50 square feet of stairwell is inappropriate and Petitioners must include the amount in the total square footage of the subject home. *Id.*

The Tribunal finds the Petitioners’ argument for the remaining discrepancy of 112 square feet due to rounding differences compelling as Petitioners’ appraiser measured by the half-foot as

opposed to Respondent's measuring by the foot. Petitioners' appraiser verified the blueprints of the home as being correct as well as personally measuring the subject home. "...I personally measured, via a tape measure, the exterior of the home to establish the actual dimensions of the home." (TR, Vol. 1 p. 26). The Tribunal finds the total square footage of the subject home to be 6,621 square feet. This calculation is derived from adding 100 square feet to Petitioners' original claim of square footage and attributing the remaining 112 square feet to rounding differences, therefore subtracting it from Respondent's calculation.

Functional Obsolescence

Petitioners' appraiser determined a true cash value of \$765,000 for the subject property for the 2004 and 2005 tax years after applying a 20% discount for functional obsolescence. The Tribunal is aware that the subject property may have some level of functional obsolescence; however, the Tribunal finds that Petitioners' appraiser submitted no basis, other than "the tenet of common sense," (TR, Vol. 1, pp.112, 128) for a reduction due to functional obsolescence. Petitioners' appraiser failed to support a finding of functional obsolescence with any market evidence or data.

The Tribunal accepts Respondent's argument that Petitioners' appraiser only made generalities to support the contention of functional obsolescence both in the valuation disclosure and in testimony. Mr. Goodstein asked Mr. Davis,

- Q. On the next page you say...what you call your statement of facts, you state there, "I believe that the subject suffers from functional superadequacy." Do you believe your assumptions are facts or opinions?

A. Yes, I think they're a combination of both. (TR, Vol. 1, p.117).

Petitioners' appraiser limited his evidence to stating a six percent obsolescence factor due to the difference between a one-story and a two-story home while the remaining percentage was for "material quality." (TR, Vol. 1, p. 159). This introduction of evidence was not supported by any factual data. Petitioners' appraiser failed to present any points of reference regarding these figures. Due to this absence of evidence, no functional obsolescence shall be applied to the value of the subject property.

When considering functional obsolescence, it is important to differentiate between reproduction cost and replacement cost. The two concepts are different as one takes into consideration obsolescence and superadequacies, and one does not. To determine functional obsolescence, the reproduction cost must be used to re-create something that is identical to the subject property.

Reproduction cost is the estimated cost to construct, as of the effective appraisal date, an exact duplicate or replica of the building being appraised, insofar as possible using the same materials, construction standards, design, layout, and quality of workmanship and embodying all the deficiencies, superadequacies, and obsolescence of the subject building. The Appraisal Institute, *The Appraisal of Real Estate* (Appraisal Institute 12th ed., 2001), p.357.

A replacement cost does not take into consideration anything other than a reasonable replacement value. "Replacement cost is the estimated cost to construct, as of the effective appraisal date, a building with utility equivalent to the building being appraised, using contemporary materials, standards, design, and layout. When this cost basis is used some existing obsolescence in the property is assumed to be cured." *Supra*.

The Tribunal finds there was no analysis based on either replacement cost or reproduction cost and Petitioners' appraisal lacks any data or factual basis for the determination of functional obsolescence. Petitioners bear the burden of proof based on market evidence to determine an applicable functional obsolescence percentage. MCLA 205.737(3). As there is no evidence to support the contention of functional obsolescence in the subject property, the Tribunal denies Petitioners' claim of a 20 percent reduction in the true cash value of the subject property.

Economic Conditions Factor

The Tribunal finds that the application of an ECF as applied to new construction is an unreliable indicator of value. The Tribunal finds that in this case, an ECF is not appropriate when applied to new construction of the subject home. The Tribunal is aware that the parties indicated that the cost approach was appropriate. In the event the cost approach is a valid indicator of value, an ECF should not be applied to new construction.

The Tribunal finds that Respondent's assessor did not properly apply ECF in this appeal. Respondent's assessor testified as to the ECF that was applied to the subject home: "Well, you have to develop an economic condition factor for a property when you do a separate valuation disclosure because you're trying to arrive at the value for that property." (TR, Vol. 2, p. 68). The Tribunal finds this statement to be in error after referencing the Michigan Assessor's Manual. "The ECF is derived by analyzing properties which have sold and comparing the cost less depreciation of the buildings to that portion of the sale prices attributable to those buildings." Michigan State Tax Commission, Assessor's Manual, Vol. III, 14-1. "The assessor must break

down his/her unit into ECF areas which encompass properties and neighborhoods of similar physical and/or economic characteristics.” *Id.* at 14-2. Additionally, the Tribunal finds an ECF must be uniform in its application.

Greater uniformity will be maintained if the appraiser who determines the ECF is also the appraiser who later on applies the ECF to the appraisals. This ensures that the same quality classification will be used in the ordinary appraisals as was used in the ECF determination. If other appraisers will be using the ECF, they should review the properties and appraisals used to determine the ECF to attain uniformity in its application. *Id.* at 14-3.

The Tribunal finds the application of an ECF study beyond 24 months to be in error.

Sales for the ECF calculation should be limited to those occurring during the same time period as applies to a sales study used to set the same starting base. Thus a 24-month sales study used to set the 1993 starting base and an ECF analysis done for the same purpose would both incorporate sales from April 1, 1990 through March 31, 1992. A 12-month sales study or ECF analysis would incorporate sales from the 12 months of 1992. This makes the appraisal study compatible with the sales study for equalization purposes. It is not necessary to adjust sales for time if they fall within the proper time period. *Id.*

The basic premise or purpose of an ECF is to bring values in line with the market. This is necessary as depreciation may skew the numbers, creating an unreliable indicator of the market. The value of homes in the market, based on these numbers, is below actual market values. When new construction is valued, the cost approach alone takes current costs and value into account. To raise the cost approach on new construction again appears to be “double dipping.” An ECF brings depreciated properties into line with the market. A new home is already at market value.

Additional Finding

The Tribunal finds that Petitioners' evidence was a valuation disclosure rather than an appraisal. According to TTR 205.1101(m), "Valuation Disclosure" means documentary or other tangible evidence in a property tax appeal which a party relies upon in support of the party's contentions to the true cash value of the subject property or any portion thereof and which contains the party's value conclusions and data, valuation methodology, analysis, or reasoning in support of the contention. The Tribunal recognizes that Petitioners' valuation statement may have intended to include an analysis of the market and a comparable sales approach may have been considered, but there is no documentation to this fact. The Tribunal recognizes the difference between an appraisal and a valuation disclosure and accepts Respondent's argument and testimony of witnesses that the evidence submitted by Petitioners is not USPAP compliant.

Conclusion

Based on the analysis, Findings of Fact and Conclusions of Law discussed above, the Tribunal finds that the true cash value, assessed value, state equalized value and taxable value for the tax years under appeal are as follows:

Year	TCV	AV	SEV	TV
2004	\$1,222,765	\$611,383	\$611,383	\$564,177
2005	\$1,222,765	\$611,383	\$611,383	\$577,153

TCV refers to True Cash Value, AV refers to Assessed Value, SEV refers to State Equalized Value, and TV refers to Taxable Value.

JUDGMENT

IT IS ORDERED that the true cash values and lawful revised assessments for the subject property shall be those specified in the "Final Values" portion of this Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with keeping the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the above ordered revision within 21 days of the entry of this Order.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall issue a refund as required by this Order within 20 days of the entry of this Order. 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. A sum determined by the Tribunal to have been unlawfully paid 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 Order. As provided by 1994 PA 254 and 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods (i) after December 31, 2002, at a rate of 2.78% for calendar year 2003, and (ii) after December 31, 2003, at a rate of 2.16% for calendar year 2004, and (iii) after December 31, 2004, at a rate of 2.07% for calendar year 2005, and (iv) after December 31, 2005, at a rate of 3.66% for calendar year 2006.

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

MICHIGAN TAX TRIBUNAL

Entered: 04/06/2006

By: Judith R. Trepeck