STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Citizens Commercial & Savings Bank
c/o Huntington National Bank,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MAHS Docket No. 17-000899

City of Flint,
Respondent.

Presiding Judge
David B Marmon

FINAL OPINION AND JUDGMENT

The Tribunal issued a Proposed Opinion and Judgment ("POJ") on December 19, 2018. The POJ states, in pertinent part, "[t]he parties have 20 days from date of entry of this POJ to notify the Tribunal **in writing, by mail or by electronic filing, if available,** if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions)."

Neither party has filed exceptions to the POJ.

The Administrative Law Judge ("ALJ") considered the testimony and evidence submitted and made specific findings of fact and conclusions of law. The ALJ's determination is supported by the testimony, evidence and applicable statutory and case law.

Given the above, the Tribunal adopts the POJ as the Tribunal's final decision in this case.[1] The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the POJ in this Final Opinion and Judgment. As a result:

The property's TCV, SEV, and TV, as established by the Board of Review for the tax year(s) at issue, are as follows:

Parcel Number: 40-13-234-022

Year	TCV	SEV	TV
2017	$393,600	$196,800	$159,596

The property's TCV, SEV, and TV, as determined by the Tribunal for the tax year(s) at issue, are as follows:

[1] See MCL 205.726.

Parcel Number: 40-13-234-022

Year	TCV	SEV	TV
2017	$337,500	$168,750	$159,596

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year(s) at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as provided in this Final Opinion and Judgment within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.[2] To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (ix) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, and (x) after December 31, 2018 through June 30, 2019, at the rate of 5.9%.

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

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days

[2] See MCL 205.755.

from the date of entry of the final decision.[3] Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is $50.00 in the Entire Tribunal and $25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.[4] A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.[5] Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.[6]

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave."[7] A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.[8] The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.[9]

By David B. Marmon

Entered: January 17, 2019
ejg

[3] See TTR 261 and 257.
[4] See TTR 217 and 267.
[5] See TTR 261 and 225.
[6] See TTR 261 and 257.
[7] See MCL 205.753 and MCR 7.204.
[8] See TTR 213.
[9] See TTR 217 and 267.

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Citizens Commercial & Savings Bank
c/o Huntington National Bank,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MAHS Docket No. 17-000899

City of Flint,
Respondent.

Presiding Judge
Peter M. Kopke

PROPOSED OPINION AND JUDGMENT

INTRODUCTION

Petitioner filed this appeal disputing the property tax assessment levied by Respondent against Parcel No. 40-13-234-022 for the 2017 tax year. William E. Delzer, Esq. represented Petitioner and Reed E. Eriksson, Esq. represented Respondent.

A hearing was held on August 7, 2018. Petitioner's witness was Jack Jason Johns and Respondent's witness was David K. Rexroth.

Based on the evidence (i.e., testimony and admitted exhibits) and the case file,[1] the Tribunal finds that subject property's true cash value ("TCV"), state equalized value ("SEV"), and taxable value ("TV") are as follows:

Parcel Number: 40-13-234-022

Year	TCV	SEV	TV
2017	$337,500	$168,750	$159,596

FINDINGS OF FACT

The following facts were proven by a preponderance of the evidence (i.e., testimony and admitted exhibits) and concern only the evidence and inferences found to be significantly relevant to the legal issues involved:[2]

[1] Mr. Johns and Mr. Rexroth were both admitted as expert witnesses. See Transcript ("TR") at 4-5, 12-3, and 74-7. The parties also stipulated to the admission of their respective exhibits (i.e., P-1, R-1, R-2, R-3, R-4, R-5, and R-6) and those exhibits were admitted. See TR at 3-4. As for R-7, that exhibit, although offered for rebuttal purposes, was not admitted. It was, however, used by Respondent to "refresh" its appraiser's recollection. See TR at 101-06.

1. The subject property is located on W. Kearsley Street in the Central Business District of the City of Flint ("FCBD") in Genesee County.[3]
2. The property is an irregular shaped parcel of 71,953 square feet or 1.6518136 acres that fronts on four streets (i.e., W. Kearsley, Church, W. First, and Grand Traverse).[4] The property is currently utilized as an owner-occupied employee

---

[2] The Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusions and has rejected evidence contrary to these findings.

[3] See P-1 at 2, 8, 20, 21, 25 (i.e., "the subject is considered to posses an average location within the Flint CBD; however, with somewhat limited accessibility") and R-1 at 2, 5, 18, 20, 23, 24, 32, 33, 43, and 44. See also TR at 7, 11, 59, 69-70 (i.e., "I think for downtown Flint it's an average location . . . . I don't think it's any better or worse than other locations in downtown Flint . . . . [a]nd the limited accessibility is because even though it fronts First Street, Church Street, Kearsley and Traverse Street, it only has access from one of those streets . . . . [s]o it has limited accessibility with only one true curb cut on Traverse Street"), 82 (i.e., "the northwest extreme of what I would deem the neighborhood boundaries would be"), 87 (i.e., "[i]t's all central business district"), 117-19 (i.e., "I will give you that the subject is on the, if you call it, the outskirts of the central business district . . . . [i]t's not North Saginaw Street, true"), and 121-25 (i.e., "those are the positive signs that I'm seeing in downtown Flint that I see as being positive generators to the life and recovery of the area").

[4] See P-1 at 2, 8, 13, 24, 25, 27, 32, 40, and 47; R-1 at 5, 32-4, 39-40, 43, and 54; and, TR at 16-7 (i.e., "[i]t fronts **three** streets," "[p]arts of the **improved** lot or the delineated lot were also deteriorating," etc.), 28, 36-7, 59, and 82 (i.e., "bordered by four different streets"). [Emphasis added.] Petitioner contends that the property consists of 73,311 square feet or 1.683 acres. Petitioner's contention is, however, based on the information provided by the Genesee County GIS and not a survey or the property's legal description. See P-1 at 13 (i.e., "in order to gather information concerning the physical characteristics of the subject property, the appraiser physically inspected the subject property . . . . [a]dditionally, information regarding the scope and character of the subject property was based on discussions with the subject owner representatives, **as well as inspection of comparable properties in the surrounding region and throughout the State of Michigan**, and by municipal records provided by the city of Flint and Genesee County" and "[r]eliance was placed on the subject's legal descriptions and other recordings as provided by municipal documents supplied by the city of Flint and Genesee County . . . . [and] the appraiser did **not** research the presence of such items [i.e., easements, restrictions, covenants] independently") and TR at 28 (i.e., "[p]er the county records and the cards in the addenda the actual size of the parcel is 73,311 square feet") and 36-7 (i.e., "Addenda A, I apologize, on Page 2 of Addenda A it says acreage 1.683, **so that's what I went with** . . . . [t]hat came off the Genesee County GIS site . . . ."). Respondent, on the other hand, contends that the property consists of 71,953 square feet or 1.65 acres +/- (i.e., 1.6518136 acres). Respondent also indicates that it had requested a survey from Petitioner and that Petitioner had failed to provide the requested survey. See R-1 at 6 (i.e., "I have not made a survey of the property"), 13 (i.e., "[t]he subject property data contained in this report was compiled from a variety of sources . . . . [t]he assessment information on the property was provided by the assessor . . . [and] [a]dditional information was obtained from public records;" "I requested from the property owner's contact . . . [a] survey and/or legal description . . . [and] [a]ny and all information that would be helpful in completing this appraisal report;" and, "[n]one of the requested information from the property owner's representative was provided, as of the writing of this report"), 17,32-3 (i.e., "I requested a survey from the property owner's representative; however, no survey was provided . . . . [t]he legal description, defined earlier in this report, is believed to accurately identify the property; however, it is somewhat indiscernible, absent any professional survey . . . . [a]s a result, I have used the documents from assessment records as they relate to the size of the site and shape . . . . [and] [t]he site, therefore, defined on the following assessment record, and the land area of 71,953 sq. ft. is utilized"). See also TR at 79, 80-1, 83 (i.e., "a copy of the assessment records showing the lots that are included and the square footage of the, or what the assessor showed as the square footage of the property"), and 88-9. Based on the above, it appears that Respondent's square footage and acreage amounts are more reliable than Petitioner's square footage and acreage amounts, particularly in light of the numerous errors and contradictory statements made by

parking lot that is zoned D-5 (i.e., Metropolitan Commercial Service District) and is accessible from both Grand Traverse Street and W. First Street.[5]

3. The property's improvements consist of asphalt paving, a gate house with electronic arm gates, fencing, site lighting, concrete curbing, a central divider island, and a retaining wall.[6]
4. The property's assessed value ("AV") for the tax year at issue is $196,800 and its TV is $159,596.[7]
5. Petitioner contends that the property's TCV for the tax year at issue is $95,000,[8] while Respondent contends that the property's TCV is $352,500.[9]
6. The property's highest and best use for the tax year at issue is its continued use as an "interim" improved employee parking lot.
7. The designated local market area is the City of Flint and the market, although stable, is experiencing little to no new construction in the FCBD. Rather, the FCBD's current "slow" growth is limited principally to the renovation of existing buildings. In that regard, the property's record card (i.e., R-5) reflects a decrease

---

Petitioner's appraiser relative to his preparation of Petitioner's appraisal and his mistaken reliance or interpretation of the Genesee County GIS website relative to Petitioner's Comparable No. 1 and other "public records," as further discussed herein.

[5] Although Petitioner's appraiser seems to indicate that the parcel is only accessible from Grand Traverse Street, the property is also accessible from W. First Street. See P-1 at 2, 8, 13, 24, 25, 26, and 32 and R-1 at 5, 11, 17-8 (i.e., "[a]ssessment records identify a total of 174 spaces in both the northern and southern portions of the property . . . . [with] 136 parking spaces (in the larger, northern portion of the site) [of which] only 30 to 50 spaces are consistently utilized by employees" and "[t]he number of spaces in the southern portion of the lot is not identifiable due to deterioration in striping"), 20, 33, 37, and 44. See also TR at 16 (i.e., "delineated there was 137, I believe, and then the overflow lot did not have any delineation of parking spots, and I do not believe it was being utilized at the time").

[6] See P-1 at 2, 8, 13, 24, 25, 26, 29-30 and R-1 at 14, and 37-8.

[7] See R-5. R-5 also indicates that the property's AV for the 2018 tax year is $159,400 and that its TV is $159,400. See MCL 211.27a(2).

[8] Although P-1 indicates that the property's "as is" Market or Final Value Estimate is $85,000, Petitioner's attorney indicated the property's TCV should be $95,000. See TR at 7 and P-1 at 2, 7, 9, and 42-3. In that regard, Petitioner's appraiser testified as follows:

> Other than typical typographical errors, **I did notice one that was impactful**. My apologies. In the search and replace that I used in the software that I used it didn't pick up the size of the parcel when I came to my value conclusion using the sales comparison approach. If I had a copy of the appraisal in front of me I could tell you the exact numbers in difference, but **it impacted the value by roughly $10,000 to the positive**, from 85,00 to 95,000. [Emphasis added.]

See also TR at 13 and 28-9, which provides, in pertinent part:

> So, the parcel size on what would be Page 42 of Petitioner's Exhibit 1 says, on that page says 66,037 square feet. **Per the County records and the cards in the addenda the actual size of the parcel is 73,311 square feet**. It says acres. It should say per square foot. And when you do the math it's a little over 95,000. So, the conclusion should be 95, 000 instead of 85,000. [Emphasis added.]

See further TR at 29-30.

[9] See R-1 at 2.

in the value of the both the property's land and improvements for the 2018 tax year. Although the value decrease for improvements would relate to both market and condition, the decrease in land value would relate to market only and suggest a slightly decreasing market for the 2018 tax year, albeit a tax year not at issue.

ISSUES AND CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.[10] In that regard, the Michigan Legislature has, as directed by the Constitution, defined "true cash value" to mean:

> . . . the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.[11]

In its review of that definition, the Michigan Supreme Court has determined that "true cash value" is synonymous with "fair market value."[12]

As for the Tribunal, the Tribunal must, under MCL 205.737(1), find a property's true cash value in determining a lawful property assessment.[13] The Tribunal is not, however, bound to accept either of the parties' theories of valuation.[14] Rather, 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.[15]

Further, a proceeding before the Tribunal is original, independent, and de novo[16] and the Tribunal's factual findings must be supported by competent, material, and substantial evidence.[17] In that regard, "substantial evidence must be more than a

---

[10] See Const 1963, art 9, sec 3.
[11] See MCL 211.27(1).
[12] See *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).
[13] See *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).
[14] See *Teledyne Continental Motors v Muskegon Twp,* 145 Mich App 749, 754; 378 NW2d 590 (1985).
[15] See *Meadowlanes Ltd Dividend Housing Ass'n v Holland,* 437 Mich 473, 485; 473 NW2d 636 (1991).
[16] See MCL 205.735a(2).
[17] See *Antisdale v Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984) and *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-3; 462 NW2d 765 (1990).

scintilla of evidence, although it may be substantially less than a preponderance of the evidence."[18]

Additionally, "the petitioner has the burden of proof in establishing the true cash value of the property."[19] "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."[20] However, "[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question."[21]

As recognized by the courts of Michigan, the three most common approaches to valuation are the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach.[22] The market approach is, however, the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.[23] Nevertheless, the Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances.[24] Regardless of the approach selected, the value determined must represent the usual price for which the subject property would sell.[25]

The Tribunal is also required to consider the "highest and best use" of property in determining the property's true cash value, as that concept is fundamental to such determinations, as "it recognizes that the use to which a prospective buyer would put

---

[18] See *Jones & Laughlin Steel Corp*, *supra* at 352-3.
[19] See MCL 205.737(3).
[20] See *Jones & Laughlin Steel Corp*, *supra* at 354-5.
[21] See MCL 205.737(3).
[22] See *Meadowlanes*, *supra* at 484-85; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968).
[23] See *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale*, *supra* at 276 n 1).
[24] See *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale*, *supra* at 277 and *Teledyne Continental Motors v Muskegon Twp*, 163 Mich App 188, 193; 413 NW2d 700 (1987), *lv den* 429 Mich 889 (1987)).
[25] See *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Meadowlanes*, *supra* at 485).

the property will influence the price which the buyer would be willing to pay….[further,] [l]and is appropriately valued 'as if available for development to its highest and best use, that most likely legal use which will yield the highest present worth.'"[26] In that regard, "highest and best use" of property is shaped by the competitive forces within the market where the property is located, and it provides the support for a thorough investigation of the competitive position of the property "in the minds of market participants."[27] Additionally, highest and best use analysis strongly influences the choice of comparable sales in the sales approach. Only properties with the same or similar highest and best uses are suitable for use as comparable sales.[28] "If the property being appraised is a single site, not a site whose use depends on assemblage with other sites, the highest and best use of the site alone is analyzed as it currently exists by itself. If the property being appraised consists of multiple sites as though sold in one transaction, the highest and best use analysis considers them as one large site."[29]

Finally, the Tribunal is also required to determine the subject property or properties' taxable values for the tax years at issue.[30]

Here, Petitioner claims that the property is an unimproved parcel of property used as a non-income producing employee parking lot and that the property's TCV should be based on its appraiser's corrected sales comparison approach.[31] [Emphasis

---

[26] See *Edward Rose Bldg Co v Independence Twp*, 436 Mich 620, 633; 462 NW2d 325 (1990).
[27] See Appraisal Institute: *The Appraisal of Real Estate* (2013, 14th ed) at 331.
[28] See *The Appraisal of Real Estate*, *supra* at 345.
[29] See *The Appraisal of Real Estate*, *supra* at 334.
[30] See MCL 205.737(1). See also MCL 211.27a(2).
[31] See TR at 6, which provides, in pertinent part:

> Both appraisers utilized **one** approach to value, although they chose different approaches to use. **Both appraisals admitted finding comparables to use was a difficult task**. The difference will be what comparables were used and how the two different appraisers adjusted or didn't adjust for the differences.
>
> What you will hear from Jack Johns, appraiser for Petitioner, is a simple and thorough appraisal. **The comparables are similar in size, age, use and location**. The comparables reflect the subject property **even if** those comparables were **not** found in the City of Flint. Mr. Johns was able to keep adjustments reduced **and reflect parcels** which were vacant at the time of sale and **used for parking lots**. [Emphasis added.]

Although Petitioner's appraisal indicates for reconciliation purposes that the income and sales approaches were utilized to derive the Petitioner's final value estimate, said indication is erroneous as the

added.] In response to said claim, Respondent indicates that Petitioner's sales approach is "filled with inconsistencies, contradictions and misrepresentations."[32] Respondent also indicates that the "comparables presented by the Petitioner are in contrast [to Respondent's comparables]," as Petitioner's appraiser utilized "office

---

appraiser utilized a sales comparison approach only. See P-1 at 9, 43 and TR at 11 (i.e., "[i]n this case I determined that the sales comparable approach was the **only approach** that was appropriate to develop and developed that approach"), 13 (i.e., "when I came to my value conclusion using the sales comparison approach"), and 65-6. [Emphasis added.] Further, see P-1 at 14-5, which provides, in pertinent part:

> There are three traditional approaches used to arrive at an opinion of value or real estate: the Sales Comparison Approach, Income Capitalization Approach, and Cost Approach. In this instance, **only the Sales Comparison Approach was considered relevant to the appraisal problem**.
>
> The Income Capitalization Approach was considered but **not** developed due to the fact that **a lack of demand for third party parking in downtown Flint exists** and that expenses would likely outpace the revenue associated with absorbing, leasing and managing the subject property as a third party parking lot. The Cost Approach was considered but **not** developed given the fact that the subject property **is essentially vacant land with only parking lot improvements**. Additionally, market participants would typically make decisions based on what similar properties are trading for in the market, the key factor implicitly reflected in the Sales Comparison Approach. For these reasons, **excluding** the Income Capitalization and Cost Approaches was **not** misleading **nor** would it detract from the credibility of the results of this appraisal report. [Emphasis added.]

See also TR at 18-20 (i.e., "the cost approach I didn't feel was applicable **given the fact that it was very difficult in estimating depreciation for assets**, and that the sales comparison approach was the most obvious and appropriate approach because I was able to find sales of **vacant** parcels **that were being utilized or had parking on them**") and 29-30, which provides, in pertinent part:

> I didn't think it [i.e., a cost approach] was appropriate. The sales I utilized were all parking lot sales, so I felt that that was the most applicable approach [i.e., the sales comparison approach]. Also, difficulty in estimating depreciation **for the parking improvements**, in my opinion, makes that approach [i.e., a cost approach] not applicable . . . .
>
> The parcel is not an income-producing parking lot. There's no apparent demand for a third party fee parking [lot] in downtown Flint. So I didn't develop that approach, either. [Emphasis added.]

Petitioner also objected to Respondent's cost approach indicating that Respondent's appraiser "parlayed the sales comparison approach into that approach" and failed to make proper adjustments to extract the improvements on those properties. Petitioner further indicated that Respondent's use of Flint properties, rather than similar properties located outside the City, required the use of large adjustments rendering his comparable unreliable in comparison to Petitioner's comparables. See TR at 182-85.

[32] See TR at 8-9 (i.e., "[a] sizable number of conclusions are presented without supporting evidence or analysis; for example, whether the Flint water crisis had an adverse impact on all real estate or that . . . a commercial use for the subject property was not financially feasible").

service zone property in Grand Blanc . . . a 2014 liquidation sale from Pontiac in Oakland County . . . and . . . a sale of two noncontiguous parcels in Davison . . . [with] [t]he closest sale date . . . [being] October 1st, 2015."[33]

As for Respondent, Respondent claims that the property's TCV should be based on its appraiser's cost approach, as said approach is "supportable" and "based upon credible evidence of the actual City of Flint marketplace."[34] Although Petitioner suggests that Respondent's cost approach was inapplicable because the property at issue is "vacant" or "unimproved land," the property is not vacant and, as such, said suggestion is inaccurate. Nevertheless, Petitioner also indicated "major issues" with the approach

---

[33] See TR at 9.
[34] See TR at 8-10 (i.e., "a **geographic competency** in Flint for the commercial real estate"), 186-88. [Emphasis added.] See also R-1 at 14-5, which provides, in pertinent part:

> The subject improvements consist of an asphalt-paved parking lot, with curbing and site lighting. Accrued depreciation has occurred through physical deterioration, as well as functional and external obsolescence. As such, the Cost Approach is often not considered to a good indication of value due to the difficulty in rendering an opinion as to all forms of depreciation. **The Cost Approach has**[, however,] **been utilized in the valuation of the subject**. A significant portion of the value is reflective of land value, in which the Sales Comparison Approach has been incorporated into the Cost Approach. **The highest and best use is deemed to be an interim use as parking and, as such, the existing improvements are considered to contribute to the overall value of the property**. As a result, the Cost Approach has been developed and **is considered the best indication of value for the subject**.
>
> The Sales Comparison Approach is deemed to be the most appropriate and applicable approach in estimating land value. **The Sales Comparison Approach for estimating the value of the land**, as if vacant and ready for development, **has been incorporated into the Cost Approach Section of this report** . . . .
>
> The research was developed predicated on those property and comparables in closest proximity and nearest to the date of valuation used in this report. In some instances, **due to slow market activity**, older sale transactions were considered; however, all comparables were considered to be the best comparables used in deriving a market value conclusion for the subject property.
>
> The Income Approach was **not** developed as it pertains to the subject property. The subject property is an off-site parking lot used in conjunction with employees of Huntington Bank's office situated 1 to 2 blocks to the northeast of the subject. **The highest and best use is considered to be for an interim parking lot until some form of alternative need for the property is shown to exist** . . . . As such, properties of this type are purchased for owner utilization and not for income potential. As a result, the Income Approach was **not** developed **nor** considered necessary in rendering an opinion as to the market value of the subject property. [Emphasis added.]

that related to the comparables utilized in determining the land value underlying or supporting the approach, which included "[i]mproved properties that remain improved, parcels so small they had to be adjusted up to 70 percent, parcels sold in 2007 and 2010, and parcels sold as part of an assemblage."[35]

The first step in this process is, however, a determination of the property's highest and best use and both appraisers analyzed the four criteria applied in making such determinations and identified the property's "as vacant" highest and best use as being held for future commercial development.[36] The "as vacant" analyses do, however, suggest that the proposed use for commercial development may not be financially feasible at this time given current market conditions (i.e. "it was concluded that a legally permitted commercial use was not financially feasible given the overall demand and absorption trends in the immediate neighborhood versus the costs associated with developing the subject parcel," "[t]he downtown Flint area has been somewhat in a state of flux," "where demand for such a use is found to exist," and "until a higher and best utilization of the site, as if vacant, is found to occur").[37] Although the "as vacant" analysis

---

[35] See TR at 7. Assemblage is defined as "[t]he combining of two or more parcels, usually but not necessarily contiguous, into one ownership or use; the process that creates plottage value," "if the combined parcels have a greater unit value than they did separately." See *The Appraisal of Real Estate*, *supra* at 199. Although assemblage relates to the combining of parcels, the concern expressed by Petitioner's attorney relates to the fact that appraisers are required to "recognize that a buyer who purchases a site with the intent to assemble it with other parcels **might have to pay a higher-than-market value for that site**, particularly for properties acquired near the assemblage period, sometimes called holdouts or hold-out parcels." [Emphasis added.] See *The Appraisal of Real Estate*, *supra* at 364. See also *The Appraisal of Real Estate*, *supra* at 199 (i.e., "[t]he [plottage] value difference may be offset by the **premium** a developer often has to pay to combine adjacent properties"). [Emphasis added.]

[36] See *The Appraisal of Real Estate*, *supra* at 331-58. See also TR at 18-9 and 21 (i.e., "[t]here would be no indication of them being purchased specifically for redevelopment at the time of sale"); P-1 at 8 and 32-3; and, R-1 at 5 and 43-5. See also TR at 17-18.

[37] See TR at 14 (i.e., "[i]t doesn't have the income growth" and "[t]here's been little to no new construction in the downtown Flint area"), 15 (i.e., "in general there's a stigma associated with Flint surrounding the water crisis"), and 18 and P-1 at 21 (i.e., "[w]hile conditions in the broader local economy continue to cause concern for all market sectors, demand for newer space within the [F]CBD appears to have remained relatively stable"), 32-3, and TR 43-9 (i.e., "I don't necessarily believe that . . . [the FCBD market is] on the upswing," "I actually say demand for vacant commercial sites within the Flint CB is very limited, with very little ground-up development taking place," "relatively stable . . . . to the rest of the market," relative to the stability of the comparable markets "I would have made adjustments had it not," and "[j]ust because it's stable, meaning it's not on the decline and it's not on the include, doesn't mean that given today's rental rates, demand and construction costs that it's financially feasible to build something new") and 60 (i.e., "major renovations of commercial buildings"). See also TR at 89-90 and R-1 at 14-5 and 44-6. Although Respondent's "Summary of Salient Facts" indicates the highest and best use

is necessary, the focus of the analysis is to determine alternative uses for the property, if any, while the focus of the "as improved" analysis is on whether the improvements should be retained, modified, or demolished.[38] In that regard, Petitioner's appraiser did not performed an "as improved" analysis because he treated the property as vacant and unimproved, even though both his testimony and appraisal specifically recognized the parking lot improvements.[39] Fortunately, Respondent's appraiser performed an "as improved" analysis and determined that its continued use as an improved parking lot is,

---

is being held for commercial development, Respondent's analysis as improved supports the property's continued use (i.e., an improved parking lot) as the property's highest and best "interim" use.

[38] See *The Appraisal of Real Estate*, *supra* at 336-37.

[39] Petitioner's appraiser testified that the highest and best use as improved was its continued use as a parking lot. See TR at 18. Petitioner's appraiser also testified that he did perform the required analysis for to support said determination. See TR at 18 (i.e., "[y]es, I did"). Said testimony was, however, corrected by his attorney who stipulated that no such analysis was in his appraisal. See TR at 19 and P-1. Petitioner's attorney did, however, state "[t]hat's why I brought it up for the knowledge of the record . . . . [i]t is a **vacant** parcel." [Emphasis added.] See TR at 19. See also P-1 at 26 (i.e., "essentially vacant land"). However, the property is not, as indicated by the evidence, vacant or unimproved. Rather, the property has been improved for purposes of its current use as a parking lot (i.e., asphalt, curbing, lighting, fencing, etc.). See also TR at 32-3 (i.e., "made note of the guard gate, fencing, site lighting . . ."). In that regard, it is interesting to note that Petitioner's appraiser did not select vacant parcels being held for commercial development for comparable purposes, but rather specifically and admittedly selected parking lots, albeit "vacant," as his comparables. See TR at 20. See also TR 63-5, which provides, in pertinent part:

> Question: Excuse me, Mr. Eriksson. What do you mean a vacant parking lot?
>
> Answer: Oftentimes parking lots are interim uses, and if so, in a market where there is demand they haven't found a user yet for the site, but they're out searching for one or it's being properly marketed for an ultimate end user. A parking lot is an interim use until such time that they find that user for ground-up development.
>
> Question: Isn't there a difference between a characterization as property being vacant land and property as being improved?
>
> Answer: Yes.
>
> Question: Is this property improved?
>
> Answer: **Yes**, I see what you're driving at. **Yes**.
>
> Question: So, this property is improved[?]
>
> Answer: **It's improved as a parking lot**.
>
> [Emphasis added.]

See also TR at 106-07 (i.e., "[t]here is no highest and best use as improved . . . . [and] [t]his is required by . . . USPAP").

at least on an "interim basis," its "as improved" highest and best use and said determination is supported by the evidence, particularly given its location (i.e., on the northwest boundary or outskirts of the FCBD).[40]

As for Petitioner's sales comparison approach, said approach is an unreliable indicator of value.[41] More specifically, Petitioner's appraiser did not, despite the property's continued interim use, value the existing improvements. Rather, Petitioner's appraiser ignored the improvements and utilized three comparable properties that were in his opinion "most similar to the subject property" to determine the property's vacant land value only.[42] None of the three comparables were, however, located in designated market area (i.e., the City of Flint). Rather, one was located in Grand Blanc in Genesee County (i.e., Comparable No. 1), one was located in Pontiac in Oakland County (i.e., Comparable No. 2), and one was located in Davison in Genesee County (i.e., Comparable No. 3).[43] Although Petitioner justifies the selection of these three comparables on the basis that all of them were "being utilized as parking lots at the time of their sale," Petitioner did not provide any credible testimony or reliable documentation establishing that the markets for those comparables were similar to the market for the subject.[44] Additionally, Comparable No. 1 sold on October 1, 2015, Comparable No. 2

---

[40] See TR at 89-90 and R-1 at 45-6. See also P-1 at 34 (i.e., "[t]he subject is a **vacant** parcel of land with an **interim use** as **an owner[-]occupied parking lot**"). [Emphasis added.]
[41] Petitioner's appraisal was a "boilerplate" appraisal with multiple errors because Petitioner's appraiser in his "search and replace" missed certain items that needed changing (i.e., "didn't pick it up . . . . [t]ypo"). See TR at 38.
[42] See TR at 20-1. See also TR at 33 (i.e., verified the sales "[w]ith the public record") and 49-50. Petitioner's appraiser also testified that he didn't make any adjustments to his comparables for improvements, despite differences in the degree of improvements, because they "were all parking lot sales." See TR at 61.
[43] See TR at 22-3 (i.e., "Comparable 2 is located in Pontiac, which I feel it's **not that dissimilar** to the City of Flint when you consider demographics, **and it was already located in the downtown area**"). [Emphasis added.]
[44] See TR at 21 (i.e., "I was seeking parcels that were similar in size and as close a geographical location that I could find **that were being utilized as parking lots or improved as parking lots at the time of sale**"), 22 (i.e., "I was unable to find parking lot sales in downtown Flint that didn't have buildings already on them or that were much, much smaller than the subject property or didn't sell nine to seven years previous, **which I felt was too far in the past**") 24 (i.e., "**ultimately most similar in use**, whether it's vacant land or an improved property"), 27 (i.e., "[t]hey're all parking lot sales, two in Genesee County, one in downtown Pontiac which I feel is a relatively similar community to the City of Flint," "I didn't may any adjustments for market conditions or conditions of sale . . . . I'm sorry . . . . . I did make one market conditions adjustment for the Davison property to account for some aspect of the distress or liquidation," and "[l]ocation adjustments, I felt that the 1 and 3 were in better communities, so I made a downward

sold on November 7, 2014, and Comparable No. 3 sold on March 24, 2014 and no time adjustments were made to reflect market changes from the date of sale to the tax date at issue (i.e., December 31, 2016) even though both parties recognized that the subject market was "rebounding," albeit slowly.[45]

As for the comparables themselves, Comparable No. 1 consists of two adjacent parcels (i.e., Parcel Nos. 12-08-200-015 and 12-08-200-016).[46] Although Petitioner's appraiser attempted to verify this sale and the land area involved, he was only able to

---

adjustment . . . . [and] I felt that the downtown Pontiac was actually a little bit worse location, so I made an upward adjustment"), 49 (i.e., relative to the to whether the Grand Blanc and Flint markets are similar, "[n]o . . . . [and] [t]hat's why I made a location adjustment"), 52, and 61-2 (i.e., "**I don't think I gave a written explanation**," "I felt that those communities were superior to the Flint community, as I previously testified," "I feel in the overall demographics that Flint is recovering a little bit better than Pontiac by 25 percent in this instance"). See also TR at 39-42 relative to the impact or "negative stigma" of the Flint water crisis on the Flint market, but not the subject property (i.e., not "in the affected area") and 145-48 (i.e., "the motivations of buyers and sellers in my view in downtown Flint are downtown Flint people").
[45] See P-1 at 21, 35, 37, and 38 and TR at 14 and 58 (i.e., "[n]ot for vacant parking lot sales in Genesee County or southeast Michigan in my opinion, no"). With respect to sales dates, Petitioner's appraiser testified that:

> "I try not to go back further than three years. In some instances if there's no comparable data I'll go back as as far as four or five."

See TR at 22-3. He also testified that:

> ". . . the most recent in time the better as it's an indicator of what the market's doing at the time. So, something that's maybe nine or seven or ten years old may not be appropriate. The market might have gone through one or two cycles during that time period."

See also R-1 at 22 (i.e., "[t]he Flint Metropolitan Area has shown signs of life and recovery since the economic downturn in 2008 through 2010"), 24 (i.e., "[s]everal new and encouraging developments have recently taken place in the Flint CBD" and "[s]everal positive attributes **have continued to assist the downtown market**, with stabilizing forces primarily revolving around government and educational/institutional improvements"), 25 (i.e., "[t]he Uptown Reinvestment Corporation is leading the charge **in Flint's on-going revitalization**" and "[t]he infrastructure and existing improvements in the downtown area, coupled with the support of the local and county government and universities, **will continue to help strengthen and further stabilize properties and property values into the foreseeable future**"), and 44 (i.e., "state of flux"), and TR at 87 (i.e., "since the 2007, 2008 collapse **there's been a resurgence of opportunities in the downtown**, and in part thanks to the Uptown Redevelopment Corporation that is made up of both public and private funds **that have given kind of new life** . . . . [s]o, there's some **very positive things** that I see happening in the downtown Flint area . . . . [t]hat, again, we have struggled, but I think that **we're seeing some good things**, **a sign of good things**"), 88, 98 (i.e., "remained relatively stable"), 100 (i.e., "[t]here has not been any significant appreciation or depreciation of value" and "Flint and Genesee County as a whole has **basically rebounded** from that downturn that we had in 2008, 2009"), 114-15, and 125-28 (i.e., "it's hard to generalize sales when we don't have sufficient data"). [Emphasis added.]
[46] See TR at 24.

"appraise" or verify one of the two parcels (i.e., Parcel No. 12-08-200-016) "through the public records" as to price (i.e., $78,100).[47] As for that parcel's acreage, Petitioner's appraiser ignored the on-line "sketch of the actual parcel that said it was .75 acres" and utilized the measurement tool on the GIS Fetch, Genesee County website, to determine that the acreage was 1.17 acres.[48] The price and acreage are, however, inconsistent with the information on the Warranty Deed and MLS listing for Parcel No. 12-08-200-016, as the Deed and listing indicate a purchase price of $110,00 for both parcels and a

---

[47] See TR at 24-5. (i.e., "[t]here's two parcels that are adjacent to each other . . . . [and] I was only able to actually confirm at the time I was doing the job the parcel that's located sort of to the left side of the picture or what would be the west," "16 is the western parcel, I believe," and "I wasn't able to confirm 015 at the time the selling price"). See also TR at 108-09 (i.e., "Sale Number 1, incorrect sales price . . . . [t]he deed shows $110,000 rather than $78,100," "I have used this comparable sale myself in my own practice as relates to appraising other properties," and "[t]he Petitioner's appraiser neglected to include a second parcel . . . . [a]nd the price, I believe the price that he is showing in his appraisal report came from the Township records . . . . [a]nd the Township, Grand Blanc Township, when there are two or more parcels that are sold they prorate a sale arbitrarily and assign so many dollars of that $110,000 to one parcel and they assign the balance of the sale price to the second parcel").

[48] See TR 24-5, which provides, in pertinent part:

> "I was only able to actually confirm at the time I was doing the job the parcel that's located sort of to the left side of the picture or what would be the west. That parcel, when I looked it up on-line and **was able to verify it through the public records**, if memory serves me correct, it sold for $78,100. There was a sketch of the actual parcel that said it was .75 acres, but the sketch of the parcel was 212 feet by I believe 215 feet, so that actually measured out to a little over an acre, like 1.04 or five.
>
> So, I went on to the GIS Fetch, Genesee County website, and located the parcel and then measured it using their measuring tool and determined that the parcel was 1.17 acres by my measurement. **So, that's what I went with**. I was able to verify the zoning through the municipality. It was a rectangularly-shaped piece. And **it was also improved** partially **with** a grass lot and **asphalt paved parking lot and also similar to the subject, only had one point of access** off of East Hill, that parcel to the west." [Emphasis added.]

Contrary to that testimony, the subject property has two points of access and other improvements, as indicated by both appraisals. In that regard, P-1 at 36 states:

> "This sale represents a 1.17 acre parcel of **effectively vacant land**. The parcel is zoned 'OS' Office Service and featured **some** parking improvements at the time of sale."
>
> [Emphasis added.]

Although Mr. Johns was later offered as a rebuttal witness, Mr. Johns' testimony related to his Comparable Nos. 1 and 3 or, more specifically, the of size and allocation of the purchase price to Comparable No. 1, the allocation of the full purchase price to Comparable No. 3 with no value to the second parcel included in that sale, and a statement relative to the market extraction method that appears contrary to appraisal practice, as indicated herein. See TR at 175-81.

total acreage of 1.17 for both parcels.[49] As a result, it would appear that the purported sale price of $78,100 was prorated by an unidentified governmental agency and that the price per square foot proposed by Petitioner's appraiser for that parcel is inaccurate.[50] With respect to Comparable No. 2, that comparable "was a city-owned lot that was sold to a private investor for redevelopment."[51] The parcel is not, however, rectangular in shape, as indicated by both Petitioner's appraisal and appraiser. Rather, the parcel is irregular in shape as indicated by the picture in Petitioner's appraisal and the sketch included on the parcel's record card, which negates the appraiser's negative 10% adjustment for the subject's irregular configuration.[52] More importantly, the sale was made by a governmental agency and neither the appraiser nor appraisal address the specifics of that sale.[53] Finally, Comparable No. 3 consists of two parcels and the sale that was reflected as a distress sale given the seller's bankruptcy and liquidation of assets. In that regard, Petitioner's appraiser testified that "the sale was arm's length" because he "couldn't find any indication that this was, quote, unquote, a distress sale . .

---

[49] See TR at 33-6 (i.e., he didn't do the proration, rather it was obtained "through public records" and "[i]t looks like a CoStar comp . . . . [and] [i]t does say 1.17"). See also R-2. Although listings are not necessarily accurate, it is interesting to note that the listing indicates a potential different use for the property after sale based on potentially different market conditions (i.e., new construction versus renovation only), which calls into question the parcel's use as a comparable. More specifically, the listing states, in pertinent part:

> "The buyer is unsure what he will do with the property. Options include building a new medical building for his or his spouse's medical practice, building a property to lease out offices, or holding on to the land for a while."

[50] See TR at 25 (i.e., "that parcel, based on the measurement I used from the County website, sold for approximately $1.53 per square foot"). Assuming the proration and "sketch" are correct, which is a stretch as an actual proration would require additional assumptions inasmuch as the prorated purchase price reflects 71% of the actual purchase price, the price per square foot would be $2.39 (i.e., $78,100/32,670 square feet). Further, see R-2 at 5 (i.e., total acreage for both parcels equaling 1.37 acres). Additionally, the parcel is improved, as indicated above, and no value was assigned to the improvements or discussed by Petitioner's appraiser. See also TR at 50-2 (i.e., D5 is "possibly broader zoning" and "there's people that want to build an office building in Grand Blanc because there's demand for office in Grand Blanc").

[51] See TR at 53-55 (i.e., "Oakland County can be perceived as superior to Genesee County," "there has been some similar redevelopment of existing buildings in downtown Pontiac").
See also P-1 at 37 (i.e., "[t]he parcel was improved with 125 parking spaces at the time of sale").

[52] See TR at 25 and R-3 and P-1 at 37 and 41. See also TR at 28 (i.e., "[o]ur parcel is not, is irregular in shape . . . . [and] [a]ll the sales were rectangular, relative") and 62-3 (i.e., as to there being no explanation for Petitioner's appraiser's adjustment for configuration, "[n]o . . . . [t]he comparables are not irregular . . . . [t]he comparables I believe are all rectangular . . . . [and] [t]he subject parcel is irregular").

[53] See TR at 55-6.

. . [as] [i]t was properly exposed to the market for a period of time," and yet adjusted the sale by 15% to reflect or otherwise "account for some aspect of the distress or liquidation," with no explanation as to the basis of that adjustment.[54] In that regard, there was, as indicated herein, no written explanation made by Petitioner's appraiser relative to any of his adjustment and his testimony regarding the "opinion" basis of his adjustments or lack thereof was not sufficiently credible given his appraisal's numerous errors, some corrected and some not, and conflicting testimony to support the adoption of his corrected value conclusion as the property's TCV for the tax year at issue.[55]

As for Respondent's combined cost and sales approach (i.e., "dovetailed"),[56] said approach, as revised, provides "the most accurate valuation under the circumstances".[57] More specifically, Respondent's appraiser utilized five comparable sales – one from 2007, one from 2010, two from 2016, and one from 2017 – to determine the property's land value. Although Respondent's appraiser indicated that the market had "remained stable enough" to "confidently" include the two older sales (i.e., Comparable Nos. 4 and 5) as comparables, the market, by his own statements, had "rebounded" with some "very positive things" going on in the Flint CBD. As a result, the inclusion of those two sales, even though Comparable No. 5 does bracket the subject in terms of size, is not appropriate without an adjustment for changing market conditions from their date of sale to the tax date at issue (i.e., December 31, 2016).[58] In that regard, those properties were also purchased for a different highest and best use (i.e., governmental buildings versus an improved parking lot).[59] As for Comparable Nos. 2 and 3, those comparables are substantially smaller than the subject. Comparable Nos. 2 and 3 were also

---

[54] See TR at 27 and 57 (i.e., "probably marketed . . . . [a]nd again, I did make an adjustment for conditions"), and 109-12 (i.e., "Sale Number 3 . . . . [l]iquidation sale . . . . [t]here is a missing parcel number in this one as well . . . . [t]he sale also included an office building . . . . [a]nd the sale comprised two noncontiguous parcels separated by a road" and "[i]t was a distress sale . . . . [i]t was bought by Jim Waldron, who is the process of several parcels in Davison") and P-1 at 38 and 41. See also TR at 56 (i.e., as to whether the Flint and Davison markets are similar, "[f]or the comparable data that was available and the adjustments I made, relatively . . . . [and] I believe I made a location adjustment for Sale Number 3 downwards of 15 percent to account for dissimilarities in location").
[55] See TR at 181-82.
[56] See TR at 92-3 and 101. See also R-1 at 47 and 52.
[57] See *Jones & Laughlin*, *supra* at p 353. See also TR 90
[58] See MCL 211.2(2). Comparable No. 4 was also purchased as part of an assemblage. See also TR at 156-61.
[59] See TR at 98. Comparable No. 5 is also located outside of the Flint CBD. See TR at 99.

purchased for a different highest and best use (i.e., continued versus interim use as an improved parking lot), while Comparable No. 3 was also purchased as part of an assemblage.[60] As such, they may be "extrinsic" factors that entered into the values placed on those properties by the purchasers that rendered those values unreliable indicators of value.[61] Nevertheless, Comparable No. 1, although a single sale,[62] is a reliable indicator of value and, in fact, the only reliable indicator of value provided by either party. Although Comparable No. 1 sold after December 31, 2016, such sales are relevant, particularly given the slight market decline for the 2018 tax year as indicated above .[63] In that regard, Comparable No. 1 also sold after 48 hours and, despite its limited marketing,[64] is located in close proximity to the subject (i.e., "one block away"), is substantially closer in size to the subject than Comparable Nos. 2 and 3 and required the least amount of adjustments of any of Respondent's comparables. As for its proximity to the purchaser's other properties and the use of the comparable as an improved parking lot for said properties, Respondent's appraiser credibly testified that the purchaser had indicated that the comparable was purchased both for redevelopment and on an "interim basis" for parking, which would indicate that it was, unlike the other comparables, purchased for the same highest and best use as the subject (i.e., interim improved parking lot).[65] With respect to the purchase price of that

---

[60] Further, Comparable No. 2 may not have ever listed for marketing. See TR at 141-45. See also TR at 148-55 (i.e., "the site was later purchased as part of an assemblage with other properties").
[61] See *Antisdale*, *supra* at 278-9. In that regard, Comparable No. 2 is located near the purchaser's property and the purchaser had a "need" for additional parking. See TR at 96. With respect to Comparable No. 3, the building was demolished, and the property was resold "one year after the date of valuation," as part of an assemblage with the resale being "a slightly higher value indicator." See R-1 at 49. See also TR at 115-16 (i.e., "the value could be changed somewhat").
[62] "A single sale **may or may not** be indicative of the market at large." [Emphasis added.] See *The Appraisal of Real Estate*, *supra* at 420. In the instant case, there is, however, only one sale that is a reliable indicator of value.
[63] See *Jones & Laughlin*, *supra* at p 353-54 (i.e., "the lapse in time is important only with respect to the weight that should be given the evidence, not to the relevance of the evidence"). See also TR at 130-31.
[64] Although such limited marketing raises questions with respect to whether the sale was subject to normal market pressures, the seller (i.e., "a publicly traded company") and the buyer (i.e., "astute and very familiar with downtown Flint") were clearly knowledgeable relative to said sale. See TR at 131-32 and 135-36. See also at 128 (i.e., "I would say there is adequate parking in most of the downtown locations").
[65] See TR at 94-5. See also R-1 at 48 (i.e., "[a]nticipation is that the property would be used for parking on an interim basis, in conjunction with adjacent properties owned by their firm and leased to governmental agencies").

comparable or, more appropriately, its adjusted purchase price, the property was not purchased for use of the existing improvements.[66] Rather, the property was, as indicated above, purchased for redevelopment and continued interim use as a parking lot. Further, "a knowledgeable buyer considers expenditures that will have to be made upon purchase of a property because these costs affect the price the buyer agrees to pay" and "[s]uch expenditures may include . . . costs to demolish and remove a portion of the improvements."[67] Contrary to Petitioner's contentions, the "anticipated" cost of demolition would, under the circumstance of this case, be added to the purchase price rather than a deduction for the cost of the improvements under an extraction method, inasmuch as the property was purchased for the land and not the improvements which were, given the appraiser's testimony, of no benefit to the purchaser.[68] As for the "anticipated cost," Respondent's appraiser did not indicate the cost anticipated by both the buyer and seller. Rather, the appraiser testified as to estimated demolition costs for both Comparable Nos. 1 and 3 with no explanation as to the basis of the difference between the two estimated costs. Nevertheless, the size differences between the improved structures on both comparables would suggest that the lower estimate for the larger structure would be appropriate for both comparables (i.e., $15,000).[69] As a result,

---

[66] Although the existing improvements had not been demolished, as of the date of the hearing or, more appropriately, the tax date at issue, the improvements were not being used. Rather, the property was, according to the appraiser's credible testimony, being used for parking only. See also TR at 154—55 (i.e., "the person that's buying this is buying a building they don't want, they're going to have to take down to get to land . . . . I'm trying to value my land, the subject property, as vacant land in comparison to these comparables that in my view had no contributory value to the improvements"). See TR at 154-55 (i.e., "they remain improved").

[67] See *The Appraisal of Real Estate*, *supra* at 412-14. See also TR at 128-30 (i.e., "[t]he market extraction has to do with the fact that a price was paid for real estate, and if there was a higher and better ultimate use of that property the developer is looking not only at the price that he acquired the property for but also for the cost of removing those improvements that do not contribute to value . . . . [a]nd so, in that vein I'm adding in my estimated demolition cost to more accurately reflect land value as if vacant") and 136-41 (i.e., Farrah was not buying those improvements," "[i]t's still a shuttered facility as far as I'm concerned").

[68] See TR at 134 (i.e., "my impression with Saad is he was not interested in the buildings and he would probably take them down in the foreseeable future . . . . [i]n fact, he was in the process of getting two or three bids when I spoke with him").

[69] Although Respondent's appraisal provides, in pertinent part, with respect to Comparable No. 1:

> "Mr. Farah indicated that they are currently obtaining estimates for demolition of the bank and drive-up facilities. No hard demolition cost estimates are yet available. As such, I have estimated $25,000 in demolition costs to remove the existing vertical construction."

the assessment at issue needs to be recalculated based on the revised adjusted square foot value indicated by Respondent's Comparable No. 1, the property's square footage as determined by Respondent, and the cost of the depreciated improvements also determined by Respondent based on their remaining economic life.[70]

Based on the above, the Tribunal concludes that the subject properties' TCV, SEV, and TV for the tax years at issue are as listed in the Introduction Section of this Proposed Opinion and Judgment (POJ).

PROPOSED JUDGMENT

This is a proposed decision and **not** a final decision.[71] As such, no action should be taken based on this proposed decision **until** a final decision is issued by the Tribunal.

After the expiration of the time period for the opposing party to file a response to the exceptions, the Tribunal will review the case file, including the POJ and all exceptions and responses, if any, and:

1. Issue a Final Opinion and Judgment (FOJ) adopting the POJ as the final decision.
2. Issue an FOJ modifying the POJ and adopting the Modified POJ as the final decision.
3. Issue an Order vacating the POJ and ordering a rehearing or such other action as is necessary and appropriate.

EXCEPTIONS

This POJ was prepared by the Michigan Administrative Hearings System. The parties have 20 days from date of entry of this POJ to notify the Tribunal **in writing, by mail or by electronic filing, if available,** if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions).

See R-1 at 48.
Respondent's appraisal also provides, in pertinent part, with respect to Comparable No. 3, "$15,000 was estimated for demolition costs, resulting in an adjusted sales price per square foot of land of $12.86," which raises questions as to whether the $15,000 demolition costs for larger building on Comparable No. 3 was anticipated by the buyer of that property or merely estimated by Respondent's appraiser. See also TR at 132-35 (i.e., "my own estimate"), and 149-51 (i.e., "these are estimated costs in my view . . . . I didn't go out and get bids").

[70] Although Respondent's appraiser had "no idea as to the age of those improvements," he "determined" that a "40-year life expectancy would be . . . normal, and that there's 5 years remaining life on those . . . improvements" resulting in their depreciation "by 87 and-a-half percent" and said depreciated cost was the only evidence provided by either party as to the value of the improvements ultimately recognized by both parties. See TR at 81, 84, and 92-3.

[71] See MCL 205.726.

Exceptions are **limited** to the evidence submitted prior to or at the hearing and any matter addressed in the POJ. There is **no** fee for filing exceptions and the opposing party has 14 days from the date the exceptions were mailed to that party to file a written response to the exceptions.[72]

Exceptions and responses filed by *e-mail or facsimile* will **not** be considered in the rendering of the Final Opinion and Judgment.

A copy of a party's written exceptions or response **must** be sent to the opposing party **by mail or email, if** email service is agreed upon by the parties**, and** proof **must** be submitted to the Tribunal demonstrating that the exceptions or response were served on the opposing party.

By Peter M. Kopke

Entered: December 19, 2018
pmk

[72] See MCL 205.726 and TTR 289(1) and (2).