



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Huntington National Bank,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MAHS Docket No. 17-000998

Cascade Township,
Respondent.

Presiding Judge
Preeti P. Gadola

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Huntington National Bank, appeals ad valorem property tax assessments levied by Respondent, Cascade Township, against Parcel No. 41-19-17-202-016 for the 2017 and 2018 tax years. William E. Delzer, Attorney, represented Petitioner, and Andrea D. Crumback, Attorney, represented Respondent.

A hearing on this matter was held on October 31 and November 1, 2018. Petitioner’s sole witness was Jack Johns, Appraiser. Respondent’s sole witness was Roger McCarty, Assessor.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values (“TCV”), state equalized values (“SEV”), and taxable values (“TV”) of the subject property for the 2017 and 2018 tax years are as follows:

Parcel No.	Year	TCV	SEV	TV
41-19-17-202-016	2017	\$585,000	\$292,500	\$292,500
41-19-17-202-016	2018	\$585,000	\$292,500	\$292,500

PETITIONER'S CONTENTIONS

Petitioner contends that the subject property is over assessed. Petitioner presented the Tribunal with an appraisal with six sales it contends it properly adjusted to be consistent with the characteristics of the subject property, and as such, its appraisal accurately concludes to the market value of the property for the 2017 and 2018 tax years. It contends Respondent, in its valuation disclosure, has improperly added hundreds of thousands of dollars to the sale price of its comparable properties for remodeling that was specific to the purchaser and not anticipated in the sale price. Petitioner also contends short deed restrictions relative to its appraisal comparables have no effect on their sale price. Petitioner contends there are insufficient, like-size, vacant land parcels, comparable to the subject that are not located in a PUD, which is inappropriate to compare to the subject B-2 zoning. Petitioner contends there is no excess land in the subject property lot and Respondent has improperly added \$75,040 to its concluded market value of the property for the value of the alleged excess land.

PETITIONER'S ADMITTED EXHIBITS

P-1: Appraisal prepared by Jack Johns.

PETITIONER'S WITNESS

Jack Johns

Mr. Johns was qualified as an expert in appraisal by the Tribunal. He prepared an appraisal of the subject property concluding in value as of December 31, 2016 and December 31, 2017. Mr. Johns considered all three approaches to value, the cost-less-depreciation, sales and income approaches, but put forth only a sales approach. He rejected the cost approach because meaningful depreciation is difficult to calculate and

land sales are not abundant. He also testified that, “literally no market participants/purchasers of the subject property rely on the cost approach when making their decision on which building to buy and what to offer, I just felt it wasn’t a very reliable or applicable approach in this instance.”¹ He similarly rejected the income approach because he “was not able to determine and come up with verifiable banking rent comps. They do not exist.” “Oftentimes credit unions and banks prefer through their real estate or REO department to own their own real estate. They do sometimes lease. Oftentimes it’s a sale/lease-back, so the rent is artificially high.”²

Mr. Johns determined the highest and best use of the property as vacant to be, commercial development. He determined the highest and best use of the property, as improved, to be utilization of “the existing building as developed or as a permitted retail use.”³ As such, he determined the site as vacant is worth less than the site as improved.⁴ He also testified, he “couldn’t confirm vacant land sales that were similar in size to the subject property and not in a PUD.”⁵ Mr. Johns inspected the property on June 5, 2018. He measured the outside with a measuring tape, took photos of the inside and outside, and spoke with the bank manager about any remodels and the bank’s branding.⁶

In his sales approach to value, Mr. Johns put forth six comparable sales adjusted to be consistent with the characteristics of the subject property. The subject property, a

¹ See Transcript (Tr) at 30-31.

² Tr. at 33.

³ P-1 at 40-41.

⁴ Tr. at 106.

⁵ Tr. at 105. PUD stands for Planned Unit Development which is a type of development that permits the developer to meet overall community density and land use goals without being bound by existing zoning requirements. See MCL 125.3503.

⁶ Tr. at 13.

branch bank, is situated on 1.49 acres, has 2,328 square feet, was built in 1987 and has a land to building ratio of 27.86 to 1. As noted above, it is located in a B-2, business improved, commercial, zoning district.

Comparable sale one is located at 6190 Kalamazoo Ave. SE in the City of Grand Rapids and sold for \$500,000 on December 14, 2017 from Huntington National Bank to HHm Real Estate Holdings, LLC. It is in average condition, is situated on 1.37 acres, has 3077 square feet, a land to building ratio of 19.39 to 1, was built in 1995, and had no deed restrictions. Mr. Johns contends, if a deed restriction is not in perpetuity, it's not impactful; he testified,

Only if it was something that went on in perpetuity from seller to seller to seller to beyond our lives. If it's something that's six months, seven months, a year, maybe even eighteen months, it's not very impactful at all. Oftentimes that's just sort of a burnout period for banks so the branding doesn't get confusing for their depositors and the new bank gets time to brand their facility for their bank or credit union. So, short term, not impactful at all.⁷

Sales comparable one was utilized in Mr. Johns' 2018 determination of value and was adjusted for location by 10% and size by 5%, for an adjusted value per square foot of \$154.38.

Sales comparable two is located at 1835 Breton Road, SE in the City of Grand Rapids and sold for \$650,000 on September 6, 2017 from Comerica, Inc. to Consumers Credit Union. It is in average condition, is situated on .43 acre, has 2,520 square feet, a land to building ratio of 7.43 to 1, was built in 1978 and has a short term deed restriction that Mr. Johns testified is not impactful. The sale was utilized in Mr. Johns' 2018

⁷ Tr. at 22.

determination of value, was adjusted by (5%) for location, 5% for age and condition and 10% for land to building ratio, for an adjusted value per square foot of \$283.73.

Sales comparable three, a former branch bank, is located at 1101 40th Street, SE in the City of Grand Rapids and sold for \$225,000 on January 8, 2016 from Ashley Capital, LLC to Redrock Information Security. Mr. Johns determined the property had deferred maintenance of \$100,000 so he utilized a sales price of \$325,000. He testified deferred maintenance, per the Marshall Valuation Cost Manual, includes,

long lived items such as roof, HVAC, parking areas, things that every user would benefit from post-sale and in order to use the building but not like tenant improvement or branding design or things of that nature that would be specific to that particular purchaser.⁸

Mr. Johns testified deferred maintenance does not include items such as marble floors and gold sinks, as those items are specific to the purchaser. He testified that if the buyer wanted a certain look, he would consider “those to be trade fixtures and tenant improvements, specific to the user, including some interior design. Oftentimes banks when they build new facilities or buy existing ones and remodel them, they have a prototypical design that they like to follow given the year they’re in.”⁹ “Those are not things that the open and broader and general market would appreciate, recognize or pay for.”¹⁰

Sales comparable three is in fair condition, is situated on 1 acre, has 5,322 square feet, a land to building ratio of 8.18 to 1, and was built in 1986. The comparable was utilized in Mr. Johns’ 2017 determination of value, and was adjusted by 15% for

⁸ Tr. at 23.

⁹ Tr. at 25

¹⁰ *Id.*

size,¹¹ 10% for quality and appeal, 15% for age and condition and 10% for land to building ratio, for an adjusted value per square foot of \$91.61.

Sales comparable four is located at 4765 44th Street, SE in Kentwood and sold for \$525,000 on September 23, 2015 from Fifth Third Bank to Macallister Holdings. It is in average condition, is situated on 2.01 acres, has 4,116 square feet, a land to building ratio of 21.27 to 1, and was built in 1990. It was utilized in Mr. Johns' 2017 determination of value, and was adjusted by (10%) for location, 15% for size, 10% for quality and appeal, and 5% for age and condition, for an adjusted value per square foot of \$153.06.

Sales comparable five is located at 2209 Plainfield Ave. NE in the City of Grand Rapids and sold for \$500,000 on March 28, 2017 from Fifth Third Bank to Lake Michigan Credit Union. It is in average condition, is situated on .61 acre, has 3,860 square feet, a land to building ratio of 6.92 to 1, and was built in 1954. It was utilized by Mr. Johns in his 2018 determination of value and was adjusted by (5%) for location, 10% for size, 10% for quality and appeal, 10% for age and condition and 10% for land to building ratio, for an adjusted value per square foot of \$172.19. There was a short term deed restriction of six months and the property underwent significant renovations and remodeling, however, Mr. Johns testified the it was his "understanding they weren't deferred maintenance items. This was so Lake Michigan could have their prototypical Lake Michigan Credit Union branded credit union facility on the site, and that those

¹¹ Mr. Johns testified the positive adjustment was as a result of economies of scale, meaning larger buildings often sell for less dollars per square foot than smaller buildings. See Tr. at 36.

improvements that they made would be above and beyond what the average market participant would pay for or appreciate.”¹²

Sales comparable six is located at 675 68th St. SW in Byron Township and sold for \$395,000 on August 19, 2016 from Fifth Third Bank to Lake Michigan Credit Union. It is in average condition, is situated on 1.09 acres, has 2,415 square feet, a land to building ratio of 19.66 to 1, and was built in 1996. It was utilized by Mr. Johns in his 2017 and 2018 determinations of value and was adjusted by (5%) for location, and 10% for quality and appeal for an adjusted value per square foot of \$171.74. Mr. Johns did not make a market conditions adjustment to the comparable for the 2018 tax year because he found no change in the market between December 31, 2016 and December 31, 2017. His concluded true cash value went up in 2018 because a different set of comparables was utilized.¹³ On cross-examination, Mr. Johns noted that Mr. McCarty added \$150,000 to the comparable sale price (Mr. McCarty utilized the same comparable), but Mr. Johns was unaware of any expenditures after the sale.¹⁴

For the 2017 tax year, Mr. Johns primary emphasis was on sales four and six and his reconciled conclusion of value was \$160 per square foot or \$375,000. For the 2018 tax year, Mr. Johns put the most weight on sales one and six and his reconciled value was \$165 per square foot or \$385,000.

RESPONDENT’S CONTENTIONS

Respondent contends that the subject property is under assessed on the tax roll and its valuation disclosure concludes in the correct true cash value of the subject

¹² Tr. at 26.

¹³ Tr. at 118-120.

¹⁴ Tr. at 117

property for the 2017 and 2018 tax years. Respondent presented the Tribunal with a valuation disclosure that put forth three land sales and four land and improvement sales, that were adjusted to be consistent with the characteristics of the subject property. Respondent contends that short deed restrictions along with a property sale have no impact on value, but it would not choose to utilize a sale in its analysis with a three-year deed restriction. Respondent contends there was extensive construction after the sale, in three of its comparables which require addition to the sale price, sometimes properly doubling the net sale price over the actual sale price. Respondent contends that the subject property lot has excess land of 35 feet which adds approximately \$75,040 in value to the property.

RESPONDENT'S ADMITTED EXHIBITS

R-1 Respondent's Valuation Disclosure

R-2 Respondent's Errata to Valuation Disclosure

R-3 FDIC Quarterly 2017, Volume 11, No. 4

R-4 Michigan Credit Union Profile Year End 2016

R-6 Deed for 6190 Kalamazoo Avenue, SE, Grand Rapids, MI

R-7 Deed for 1835 Breton Road, SE, Grand Rapids, MI

R-8 Deed for 1101 40th Street, SE, Grand Rapids, MI

R-9 Traffic Count Data for Subject Property

R-12 Errata Sales Comparison Grid

R-13 Area and Neighborhood Analysis, esri data.

R-14 Grand Valley Metropolitan Council – Historic Traffic Count Database

RESPONDENT'S WITNESS

Roger McCarty

Mr. McCarty is the assessor for Cascade Township and was qualified as an expert in appraisal and property valuation by the Tribunal. Mr. McCarty prepared a valuation disclosure concluding in value for the subject property of \$660,000 for 2017 and \$675,000 for 2018. He considered all three approaches to value, but like Mr. Johns, rejected the cost-less-depreciation and income approaches, and relied on his sales approach to determine the true cash value of the property. Mr. McCarty corroborated Mr. Johns' testimony that depreciation is difficult to calculate, and income data was unavailable. Mr. McCarty, however, did utilize his land sales analysis from his cost approach, to value excess land included with the subject property lot. Mr. McCarty determined the highest and best use of the property as vacant to be, as "a bank branch of 3,000 to 5,500 square feet."¹⁵ He determined the highest and best use of the property, as improved, to be "continued use as a bank branch."¹⁶

Mr. McCarty put forth three land sales, adjusted to be consistent with the characteristics of the subject property. Land comparable one, located at 6010 28th St. SE, in a PUD, is .2 mile west of the subject property. It sold for \$1,250,000 on January 13, 2017 and consists of 5.02 net acres. It was adjusted by 40% for its size and its adjusted value per square foot is \$8.00. Land comparable two located as 6120 Charlevoix Woods Court SE, in a PUD, is .16 mile north of the subject property. It sold for \$500,000 on June 23, 2017 and consists of 2.13 net acres. It was adjusted by 40% for its inferior street access and its adjusted value per square foot is \$7.54. Land

¹⁵ See R-1 at 43.

¹⁶ *Id* at 43.

comparable three, located at 5701 28th Street, SE, in a PUD, is .55 mile west of the subject property. It sold for \$1,200,000 on March 25, 2015 and consists of 1.99 net acres. It was adjusted by 5% for market conditions and (20%) for location and its adjusted value per square foot is \$11.63. Mr. McCarty reconciled the three land sales at \$8.00 per square foot, applying most weight on sales comparable one because it is closest to the subject with similar access.

Mr. McCarty testified he's visited the subject property several times including on January 29, 2018. On that date, he rechecked his improvement measurements and also rechecked its rear measurements on May 31, 2018. Mr. McCarty toured the inside of the property with Terry Mass, facilities manager.¹⁷ Mr. McCarty has lived in Cascade Township since 1990 and drives by the subject property, daily. He testified all the branch banks in Cascade have been appealed to the Tribunal, so he is very familiar with their valuation.¹⁸

In his 2017 sales approach to value, Mr. McCarty put forth four sales that he adjusted to be consistent with the characteristics of the subject property. Sales comparable one is located at 3493 West Shore Drive in Holland Township. It sold for \$1,150,000 from West Michigan Community Bank to Lake Michigan Credit Union on January 30, 2014. The property sale price included personal property, so Mr. McCarty utilized a sale price of \$900,000 in his analysis. The comparable property was in good condition at the time of sale, is situated on 1.86 acres, has 3,522 square feet, a land to building ratio of 23 to 1 and was built in 2006. Mr. McCarty inspected the property in

¹⁷ Tr. at 151.

¹⁸ Tr. at 142, 145.

2016 as part of a valuation disclosure he prepared for another credit union and he testified the property has a similar location to the subject. Mr. McCarty adjusted his comparables by 3% per year for market conditions, which he justified to be “a combination of looking at what’s going on in the market, and one of the things that we noticed was that [construction] costs are increasing at a range of about 3% per year.”¹⁹ Here, Mr. McCarty made a market conditions adjustment of 9% for an adjusted sale price of \$278.53 per square foot. Rather than making additional percentage adjustments, however, Mr. McCarty used qualitative adjustments of plus or minus. He testified,

The reason I did plus or minus rather than trying to put in percentages is that in order to have meaningful adjustments for percentages you have to have data to actually make them. And –

Q: For building size you felt that you didn’t have sufficient data to make a percentage or dollar per dollar adjustment?

A: That’s correct.

Q: How did you make a determination without that data that it was supposed to be a positive adjustment?

A: Well, I could tell which way the adjustment was supposed to go.

Q: Gotcha.

A: I just couldn’t, with an acceptable degree of accuracy, give you a percentage. And rather than making something up I felt that we’ll just do it the best we can in this particular situation.²⁰

Mr. McCarty made a plus adjustment to comparable one for building size and his final determination for comparable one was a net adjustment of “plus.”

¹⁹ Tr. at 237.

²⁰ Tr. at 239-240.

Mr. McCarty's comparable two, located at 4350 44th St. SW in Grandville sold on January 7, 2016 for \$680,000 from River Valley Title to Consumer's Credit Union. Mr. McCarty testified he spoke to Cindy McDonald, property manager for Consumers Credit Union, and she told him there were \$600,000 in expenditures after the sale that Mr. McCarty added to the sale price, utilizing a net sale price of \$1,280,000 in his analysis. Mr. McCarty testified Ms. McDonald and the branch manager told him that the interior of the property was gutted, the bank vault was removed and a new roof was installed. In addition, the Grandville assessor's office gave Mr. McCarty a copy of the property blue prints. He testified the construction after the sale was not re-branding "because there was no physical change to the outside of the building. It looks the same now as it did before the sale."²¹ He testified it was proper to add the cost of the construction after the sale to the sale price.

Comparable two was in superior condition to the subject after remodeling, is situated on .4 acres, has 1,636 square feet, a land to building ratio of 10.6 to 1 and was built in 1990. There was a 3% market conditions adjustment putting forth an adjusted sale price of \$805.87 per square foot. There was also a minus adjustment for building size, a plus adjustment for land, a minus adjustment for location, and a minus adjustment for "condition at sale," for a total net adjustment of minus. Comparable two was Mr. McCarty's least favorite comparable, "but it still provided information, so I felt it should be included in the valuation disclosure."²²

²¹ Tr. at 237.

²² Tr. at 247.

On cross-examination Mr. McCarty testified he only talked to the buyer of comparable two, not the seller. He was questioned regarding the \$600,000 expenditure after the sale, “Q: So, you have no idea if the seller anticipated this cost or not?” “A: I’d have to agree with that.”²³ He went on to testify, however, “well, the seller would have known that the buyer would have needed to do those things in order to turn it into a bank branch.” “Q: How do you deduce that?” “A: Because the bank - - because the building wasn’t useable as a bank branch as it stood.”²⁴

Mr. McCarty’s comparable three is located at 675 68th Street SW in Byron Township and sold for \$395,220 on August 19, 2016 from Fifth Third Bank to Lake Michigan Credit Union. The comparable had \$150,000 in expenditures after the sale because the interior was gutted and rebuilt and the steel roof was painted. As such, Mr. McCarty utilized a net sale price of \$545,220 in his analysis. Mr. McCarty confirmed the details of the construction with Leo Vicari, property manager for Lake Michigan Credit Union. He also spoke with the branch manager, and Steve Compeau, the property manager after Mr. Vicari retired. Mr. Compeau told Mr. McCarty that he considered only the painting of the steel roof to be re-branding, so Mr. McCarty reduced his original calculation of expenditures after the sale from \$170,000 to \$150,000, allowing \$20,000 for the cost of painting. Mr. McCarty testified, “I got an estimate of the cost to paint the roof from our Township engineer and deducted that estimate from the reported construction cost.”²⁵ This sale was also utilized by Mr. Johns, but, as noted above, he did not add \$150,000 to the sale price for expenditures after the sale.

²³ Tr. at 352.

²⁴ Tr. at 380.

²⁵ Tr. at 255.

Comparable three is situated on 1.09 acres in PUD zoning, has 2,415 square feet, a land to building ratio of 19.66 to 1, and was built in 1996. There was a market conditions adjustment of 1% putting forth an adjusted sale price of \$228.02 per square foot. There was also a minus adjustment for location, and a minus adjustment for condition of sale, assuming the remodeling was complete, for a total net adjustment of minus. Mr. McCarty testified, “[i]f for some reason one were not to include the construction after sale then the property would be significantly inferior in condition to the subject, and at that point you would need to do a plus adjustment, a rather significant plus adjustment.”²⁶ Mr. McCarty testified he did not speak to the seller of comparable three and did not know if the seller anticipated the \$150,000 expenditure. He did testify, however, that the seller would know the condition of the property so it would know costs needed to be incurred to make the property usable. Mr. McCarty testified, “Mr. Vicari reported it to be tired and in need of update. Immediately following the sale Lake Michigan Credit Union spent to remodel and update the property.”²⁷

Mr. McCarty’s comparable four, which is Mr. Johns’ comparable five, is located at 2209 Plainfield Ave NE, in the City of Grand Rapids. It sold for \$500,000 on March 28, 2017 from Fifth Third Bank to Lake Michigan Credit Union. It had \$475,156 in expenditures after the sale for a net sale price of \$975,156, utilized by Mr. McCarty in his analysis. Mr. McCarty testified regarding the expenditures, “Well, it wasn’t immediately after the purchase, but they did to extensive remodeling on the property before they opened it. It included interior remodeling. They closed up the drive-through

²⁶ Tr. at 258.

²⁷ Tr. at 381.

window and put in a new remote drive-through canopy and three drive-throughs in the back. They also did some remodeling and changing to the walls.”²⁸ Mr. McCarty communicated with the Grand Rapids assessor’s office to check on when building permits were issued and inspected the property during and after construction. He testified the cost of the remodel was \$650,000, but he reduced the amount of his expenditures after the sale, by the amount Mr. Compeau told him was attributed to re-branding, which was the cost of the exterior walls. There was also a deed restriction with the property, but Mr. Vicari told him the restriction had no impact on the sale price.

Comparable four is situated on .61 acre, has 3,860 square feet, a land-to-building ratio of 6.88 to 1, and was built in 1954. There was a market conditions adjustment of (1%) putting forth an adjusted sale price of \$250.10. There was also a plus adjustment for building size, a plus adjustment for land, a plus adjustment for location and a minus adjustment for condition at sale, considering the remodel, for a total net adjustment of plus.

Mr. McCarty placed the most emphasis on sales one and three, testifying, “Sale 1 is, admittedly, a little bit older, but otherwise there was very little adjustment. We had none of the construction after sale discussion that needed to be made.”²⁹ “The other sale that I put a lot of weight in is Sale 3, and again, because of the amount of adjustment. We do have construction after sale, but there’s less construction after sale there than there is in the others.”³⁰ “Sale Number 4 would be the one that I would put the third weight on. Again, we have a little more adjustment going on there, and we

²⁸ Tr. at 260.

²⁹ Tr. at 274.

³⁰ Tr. at 275.

have some construction after sale, but it's still a good indicator of value."³¹ As noted above, Mr. McCarty placed the least amount of weight on sale two, and concluded in value of \$250 per square foot or \$582,000 for 2017. In 2018, Mr. McCarty utilized the same sales comparables with market condition adjustments³² and concluded in value of \$258 per square foot or \$599,460. To his conclusions of value, Mr. McCarty added the value of excess land.

Mr. McCarty testified the land west of the subject improvement is surplus land as it cannot be split from the property and sold, but the 35 foot strip at the bottom of the lot could be sold to the office building to the south and as such, adds value. He testified, "that 35 feet could be removed from the property, could be of use to them, and so, potentially could be sold."³³ Further, he testified he spoke to the Cascade Township Planning Director who communicated the 35 feet could be split off, even though both lots are nonconforming with zoning, "because it wouldn't make things worse than they were." The Planning Director also indicated he had a similar situation going on at the present for which he recommended approval.³⁴ Mr. McCarty utilized the \$8.00 per square foot value he concluded to under the cost approach and determined the excess land would add \$75,040 to the concluded market value of the property under the sales approach. As a result, his final conclusion of the true cash value of the subject property for the 2017 tax year is \$657,000 and \$675,000 for 2018.

³¹ *Id.*

³² See R-1 at 64.

³³ Tr. at 173-174.

³⁴ Tr. at 174.

The Tribunal notes that Mr. McCarty testified because he determined there is excess land with the subject property lot, he utilized a smaller land to building ratio of 23.83 to one, rather than its actual ratio of 27.95 to 1.³⁵

FINDINGS OF FACT

1. The subject property is a bank branch located at 6174 28th Street in Cascade Township and has frontage on 28th Street and Lincolnshire Lane. The property has 2,328 square feet and is situated on a lot of approximately 1.5 acres. There is an 858 square foot canopy off the rear with three drive-through lanes. There is parking lot and a sidewalk in front, two drives over the rear lot line to the office building behind and an entrance off 28th Street, with a second entrance off Lincolnshire.
2. Petitioner presented the Tribunal with an appraisal which put forth six sales adjusted to be consistent with the characteristics of the subject property. All of the sales were to or from financial institutions, or both. All of the sales are in the greater Grand Rapids area, as is the subject property.
3. Respondent presented the Tribunal with a valuation disclosure that put forth four sales adjusted to be consistent with the characteristics of the subject property. All of Respondent's sales also involved financial institutions and were in the Grand Rapids area. Two of Respondent's sales were also presented by Petitioner.
4. A portion of the sales presented by the parties had deed restrictions and a portion were remodeled after their sale. There was no confirmation from the

³⁵ See R-12.

buyer and seller regarding whether the anticipated remodeling/construction was agreed to as part of the sale price.

5. Respondent's valuation expert generally received his comparable information from the buyer of the properties. Petitioner's valuation expert generally received his comparable information from the seller or broker of the properties.
6. Respondent's valuation expert used Esri³⁶ and Petitioner's appraiser utilized EASI³⁷ for demographic and other information they found pertinent to their analyses. The valuation experts disagreed on the correct traffic counts, population, income, effect of the school district, among other differences.
7. The subject property lot has excess land of 35 feet that can be sold off.

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.³⁸

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. 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 percent. . . .³⁹

The Michigan Legislature has defined "true cash value" to mean:

³⁶ "Esri is an international supplier of geographic information system software." See www.esri.com, viewed January 29, 2019.

³⁷ "EASI is a trusted industry leader: Demographic Estimates and Forecasts, Demographic Software and Mapping." See www.easidemographics.com, viewed January 29, 2019.

³⁸ See MCL 211.27a.

³⁹ Const 1963, art 9, sec 3.

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.⁴⁰

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”⁴¹

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”⁴² The Tribunal is not bound to accept either of the parties' theories of valuation.⁴³ “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”⁴⁴ In that regard, 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.”⁴⁵

A proceeding before the Tax Tribunal is original, independent, and de novo.⁴⁶ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”⁴⁷ “Substantial evidence must be more than a scintilla of

⁴⁰ MCL 211.27(1).

⁴¹ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

⁴² *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

⁴³ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

⁴⁴ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁴⁵ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

⁴⁶ MCL 205.735a(2).

⁴⁷ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

evidence, although it may be substantially less than a preponderance of the evidence.”⁴⁸

“The petitioner has the burden of proof in establishing the true cash value of the property.”⁴⁹ “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.”⁵⁰ 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.”⁵¹

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.⁵² “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”⁵³ 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.⁵⁴

⁴⁸ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

⁴⁹ MCL 205.737(3).

⁵⁰ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

⁵¹ MCL 205.737(3).

⁵² *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).

⁵³ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

⁵⁴ *Antisdale*, *supra* at 277.

Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.⁵⁵ Both valuation experts employed the sales approach to value and the Tribunal agrees that the sales approach is the proper technique to utilize in determining the true cash value of the subject property for the 2017 and 2018 tax years.

Both valuation experts put forth sales in the subject property area that are quite similar to the subject property, given that before or after their sale, or both before and after their sale, they are financial institutions. Mr. Johns' comparable one was a Huntington National Bank, his comparable two sold to Consumers Credit Union, comparable three was a former bank branch, comparable four a former Fifth Third Bank and comparables five and six, were former Fifth Third Banks that became Lake Michigan Credit Unions. Mr. McCarty's comparable one sold from West Michigan Community Bank to Lake Michigan Credit Union, comparable two was sold from a title company to a branch bank, comparable three, Mr. Johns' comparable six, sold from Fifth Third Bank to Lake Michigan Credit Union, and his comparable four, Mr. Johns' comparable five, also sold from Fifth Third Bank to Lake Michigan Credit Union. The experts adjusted the comparables for their differences from the subject, Mr. McCarty made qualitative adjustments of plus or minus and Mr. Johns, percentage adjustments. Respondent has provided testimony suggesting that Mr. Johns' adjustments are improper, given their incorrect basis, including erroneous traffic count, incorrect demographics including increasing population, average income and decreasing unemployment; lack of acknowledgement of new construction in the area, and high

⁵⁵ See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

paying, recession resistant jobs. Mr. Johns also failed to consider the excellent school district the property is located in, which attracts residents/potential customers.

Mr. Johns determined the daily traffic count in front of the subject property to be 1,383 cars per day. Mr. McCarty determined 18,119 cars passed in front of the subject property per day. Both appraisers agree that traffic count is one factor to consider in making a location adjustment.⁵⁶ Mr. Johns pulled his demographic data from EASI and Mr. McCarty Esri, and much commotion was made about the different facts obtained from these sources, among others. In *The Appraisal of Real Estate*, it states that value influences in real estate markets are influenced by social, economic, governmental and environmental sources.⁵⁷ Social influences include, among other factors, population density and employment levels. Economic influences include, among other factors, mean and median household income and amount of development and construction. Governmental influences include, among other factors, zoning, and environmental factors include, among other factors, quality of schools.⁵⁸ Respondent contends if Mr. Johns' appraisal and adjustments are based on the incorrect traffic count and demographic information, how can the Tribunal provide it any weight? Petitioner, on the other hand, points out that Mr. McCarty is not an appraiser, Mr. Johns is unfamiliar with Esri and doesn't use it, Mr. McCarty admits he has no access to Esri information, but an

⁵⁶ Tr. at 271.

⁵⁷ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013), p. 166.

The Appraisal of Real Estate is the appraisal profession's, "flagship text, reflects this recommitment to the essential principles of appraisal and the sound applications of recognized valuation methodology." Further, "both appraisers and users of their services can be assured that this volume builds on time-tested foundational knowledge and contains the most up-to-date information and learning on valuation available anywhere." *Appraisal of Real Estate*, Forward, written by Richard L. Borges II, MAI, SRA, 2013 President, Appraisal Institute.

⁵⁸ Appraisal Institute, *The Appraisal of Real Estate*, pp. 166-170.

appraiser friend, David VanderHeide, printed it for him,⁵⁹ suggesting that information might not be accurate. Mr. McCarty also bases his condition adjustments on remodeled spaces, as a result of construction after the sale, yet condition at sale is the relevant comparison. He correctly testified that if he utilized the actual condition of the property at sale, “a rather significant plus adjustment,” would be required.⁶⁰ The Tribunal finds the parties to be correct regarding unreliable adjustments, and it is unable to determine which expert’s adjustments are accurate given the conflicting information provided. As such, the Tribunal disregards them.

Further, there is a large point of contention between the parties relative to construction after the sale, and if it should be included in the property sale price, pursuant to the market approach to value. Mr. McCarty added \$600,000 to the sale price of his comparable two, almost doubling its sale price, \$150,000 to the sale price of his comparable three, and \$475,156 to his comparable four, again, almost doubling its sale price. These expenditures after the sale were confirmed by the purchasers of the property, with the most information obtained from Mr. Vicari, Mr. Compeau and Ms. McDonald, none of whom were present in the courtroom as witnesses, subject to cross-examination. While much of the information in an appraisal or other type of valuation disclosure could be hearsay, for example, “I confirmed with the broker,” “I spoke with the purchaser on the phone,” “the manager emailed me,” and the rules of evidence are relaxed in a Tribunal proceeding,⁶¹ the Tribunal is somewhat concerned by the amount

⁵⁹ Tr. at 298.

⁶⁰ Tr. at 258.

⁶¹ “The admissibility of evidence in an administrative hearing is governed not by the Michigan Rules of Evidence but by the somewhat relaxed standard set forth in MCL 24.275.” See *Becker-Witt v Bd of Examiners of Social Servs*, 256 Mich App 359; 663 NW2d 514 (2003); *In re Youssef*, unpublished per curiam opinion of the Court of Appeals, issued April 25, 2017 (Docket No. 330222), p *2, citing *Becker*.

of specific “testimony” that is repeated by Mr. McCarty from the three sources.

Nevertheless, the Tribunal rejects the expenditures after the sale for lack of verification from *both* the buyer and the seller and for lack of information about the market value of the expenditures, not just their actual cost.

According to the *Appraisal of Real Estate*,

A knowledgeable buyer considers expenditures that will have to be made upon purchase of the property because these costs affect the price the buyer agrees to pay. Such expenditures include:

costs to cure deferred maintenance

costs to demolish and remove a portion of the improvements

costs for additions or improvements to the property

costs to petition for a zoning change

costs to remediate environmental contamination.

These costs are often quantified in price negotiations and can be discovered through verification of the sale transaction through data. *The relevant figure is not the actual cost that was incurred but the cost that was anticipated by both the buyer and the seller.*⁶²

Here, repeatedly, Mr. McCarty testified that he spoke to Mr. Vicari, Ms. McDonald or Mr. Compeau, looked at building permits or viewed property blueprints, and determined the

MCL 24.275, states, “[T]he rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.”

“Evidentiary rulings in administrative proceedings may stray from rigid courtroom rules of evidence; in fact, in contested cases before an administrative agency, fact finders may admit and give and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.” *Rentz v General Motor Corp*, 70 Mich App 249; 245 NW2d 705. (1976).

⁶² Appraisal Institute, *The Appraisal of Real Estate*, pp. 412 (emphasis added).

actual cost⁶³ of the expenditures after the sale, but there is no information as to whether these costs were agreed to by both the buyer and the seller before or upon consummation of the sale. Mr. McCarty testified, for example, that Mr. Vicari told him the property was old and tired, so the seller would know the property was in need of updating,⁶⁴ but was this updating anticipated by both buyer and seller in the sale price? Further, the amount added to the actual sale price by Mr. McCarty is the cost of the improvements, which the Tribunal finds to be incorrect, without additional analysis. An example given in the *Appraisal of Real Estate*, is as follows,

consider a 15,000 – sq. – ft. warehouse that is comparable to the property being appraised and was recently sold for \$850,000. The new owner-occupant expected to spend \$65,000 to install an additional door and loading dock, which was a market-driven decision. In an interview with the new owner of this comparable property, the appraiser learns that the demolition and new construction actually cost \$105,000. The value indication for that comparable property would be \$915,000 (\$850,000 + \$65,000) rather than \$955,000 (\$850,000 + \$105,000) because the \$65,000 expenditure anticipated by the buyer was deducted from the price the property would demand on the market if no expenditures were necessary.⁶⁵

The *Appraisal of Real Estate* also states, “[a]djustments for deferred maintenance can be handled similarly, but the appraiser should make sure that the buyer and seller were aware of any items needing immediate repair.”⁶⁶ Mr. Johns correctly testified,

And let’s say the building was 2,000 square feet and they spend \$600,000. That’s \$300 a square foot. You can probably build a brand new building for \$300 per square foot. Those are not things you add on arbitrarily. You have to truly understand if they were both necessary to the seller and buyer. That’s the first - - you cross that line first. And if they’re only necessary to the buyer, then they should not be added.⁶⁷

⁶³ See Tr. at 354.

⁶⁴ Tr. at 381.

⁶⁵ *Id.*

⁶⁶ *Id.* at 413.

⁶⁷ Tr. at 130.

Mr. McCarty also admits in his testimony that he has concerns with adjustments for construction after the sale. As noted above, he testified, “[s]ale 1 is, admittedly, a little bit older, but otherwise there was very little adjustment. *We had none of the construction after the sale discussion that needed to be made.*”⁶⁸ “The other sale that I put a lot of weight in is Sale 3, We do have construction after the sale, *but there’s less construction after the sale than there is in the others.*”⁶⁹ “Sale Number 4 would be the one that I would put the third weight on. Again, we have a little more adjustment going on there, *and we have some construction after sale, but it’s still a good indicator of value.*”⁷⁰ As noted above, Mr. McCarty placed the least amount of weight on sale two, *which had \$600,000 in adjustments for construction after the sale.* Mr. Johns added \$100,000 to comparable three for deferred maintenance, which he indicated both buyer and seller anticipated, but the Tribunal has determined it will reject all adjustments for construction after the sale and deferred maintenance, and reject all unreliable quantitative adjustments, instead concentrating on the unadjusted sale prices of the most relevant comparables.

The Tribunal finds the best method of determining the true cash value of the property for the 2017 and 2018 tax years is through a qualitative analysis.

“Qualitative analysis recognizes the inefficiencies of real estate markets and the difficulty of expressing adjustments with mathematical precision.”⁷¹ The Tribunal finds the relative comparison analysis with bracketing best represents the value of the property. “To apply the technique, the appraiser analyzes comparable sales and

⁶⁸ Tr. at 274.

⁶⁹ Tr. at 275.

⁷⁰ *Id.*

⁷¹ Appraisal Institute, *The Appraisal of Real Estate*, p. 403.

identifies whether the characteristics of the comparable properties are inferior, superior or similar to those of the subject property.” “Reliable results can usually be obtained by bracketing the subject between comparable properties that are superior and inferior to it.”⁷² The Tribunal will consider the parties’ unadjusted comparables, and bracket them as inferior, superior or similar to the subject property, or not comparable at all.

While both valuation experts agree that short deed restrictions do not affect the value of a property, Mr. McCarty, however, rejected Mr. Johns’ comparable one, testifying, that “[t]here’s a three-year deed restriction prohibiting use as a financial institution or a bank or credit union.”⁷³ Mr. Johns counters that he did not find the three-year deed restriction to be impactful.⁷⁴ He testified,

I know that all the sales I used had either zero or somewhere, some short-term deed restriction that I do not consider in my 25 plus years of being in this business and selling real estate that buyers and sellers in the marketplace would adjust their selling price because of it, so it did not require an adjustment.⁷⁵

The Tribunal finds short deed restrictions do not impact the value of the comparables, and is persuaded by Mr. Johns’ testimony that even a three-year deed restriction does not impact the value of comparable one.

Comparable one sold for \$500,000 from Huntington National Bank, is similar to the subject property in land area, condition and is slightly newer. It is 749 square feet larger than the subject, and has a smaller land to building ratio. The Tribunal finds Mr. Johns’ comparable one to be similar to slightly superior to the subject property.

⁷²Appraisal Institute, *The Appraisal of Real Estate*, pp. 403 - 404.

⁷³ Tr. at 281, R-6.

⁷⁴ Tr. at 111.

⁷⁵ Tr. at 114.

The improvement in Mr. Johns' comparable two was allegedly demolished immediately after the sale, however, it was not confirmed that both buyer and seller had knowledge of the demolition plan, though Mr. McCarty testified Cindy McDonald "told me they were going to be demolishing it." Nevertheless, the Tribunal puts less emphasis on Mr. Johns' comparable two given it could be considered to be a land sale only,⁷⁶ and there are more reliable comparables to the subject.

Mr. McCarty testified that Mr. Johns' comparable three, a former branch bank, is located in an industrial district between the old Steelcase plant and Steelcase headquarters. It is on a sub-street and there would be no reason to drive down the street other than to visit the buildings, demonstrating an inferior location.⁷⁷ The property has also been vacant since 2007 and was in poor shape at the time of sale, according to Mr. McCarty who spoke to the co-owner. Mr. Johns' also determined the property to be in fair condition at the time of sale, while the subject property is in average condition.⁷⁸ The Tribunal finds Mr. Johns' comparable three, which sold for \$225,000, to be inferior to the subject.

Mr. Johns' comparable four sold for \$525,000 from Fifth Third Bank. Its year built and condition are similar to the subject property, its acreage slightly bigger, its land to building ratio, slightly smaller and its square footage almost double the subject property's. The Tribunal finds comparable four to be superior to the subject property. The property sold in late 2015, about one year before the first date of value,⁷⁹ however,

⁷⁶ Tr. at 283.

⁷⁷ Tr. at 284.

⁷⁸ Tr. at 286. Also, see P-1 at 46.

⁷⁹ MCL 211.2(2) states: The taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 of the immediately preceding year, which is considered the tax day, any provisions in the charter of any city or village to the contrary notwithstanding.

the Tribunal is convinced by Mr. Johns' testimony and analysis that the property does not require a market conditions adjustment.

Mr. Johns' comparable five, which is also Mr. McCarty's comparable four, sold for \$500,000 from Fifth Third Bank to Lake Michigan Credit Union. Its acreage is smaller than the subject property's, its square footage is larger, it's much older than the subject property, constructed in 1954 versus the subject 1987 and its land to building ratio is much smaller than the subject's. The Tribunal finds Mr. Johns' comparable five to be inferior to the subject property.

Mr. Johns' comparable six, which is also Mr. McCarty's comparable three, sold for \$395,000 from Fifth Third Bank to Lake Michigan Credit Union. Its acreage and land to building ratio are slightly smaller than the subject property's, it's very similar in size and newer than the subject property, but it appears both appraisers agree that its quality and appeal are less than the subject's.⁸⁰ As such, the Tribunal finds that this comparable is inferior to the subject property.

Mr. McCarty's comparable one sold for \$900,000 in January 2014 from West Michigan Community Bank to Lake Michigan Credit Union. The dates of value in this appeal are December 31, 2016 and December 31, 2017. As such, comparable one sold almost four years earlier than the 2018 date of value. The Tribunal places little emphasis on Mr. McCarty's comparable one given newer sales comparables are available. Mr. McCarty, himself, placed less emphasis on his land comparable three because it sold 21 months prior to the first date of appraisal.⁸¹

⁸⁰ Mr. McCarty gave the comparable a net negative adjustment, after considering remodeling, (See R-12) and Mr. Johns considered its quality and appeal, inferior (see P-1 at 55).

⁸¹ See Tr. at 208.

Mr. McCarty's comparable two sold for \$680,000 from River Valley Title to Consumer's Credit Union. Its square footage, acreage and land to building ratio are smaller than the subject's, and its age similar to the subject. The Tribunal finds the comparable inferior to the subject.

Mr. Johns' comparable three, sold for \$225,000 and is inferior to the subject property. Mr. Johns' comparable six, also Mr. McCarty's comparable three, sold for \$395,000, and is inferior to the subject. Mr. Johns' comparable five, also Mr. McCarty's comparable four, sold for \$500,000 and is inferior to the subject property. Mr. Johns' comparable one, sold for \$500,000 and is similar to or slightly superior to the subject property. Mr. Johns' comparable four, sold for \$525,000 and is superior to the subject property. Mr. McCarty's comparable two sold for \$680,000 and is inferior to the subject. Considering the sales inferior to the subject which sold for \$225,000, \$395,000 and \$500,000, the sale similar to slightly superior to the subject that sold for \$500,000, and the sale superior to the subject property, that sold for \$525,000; the subject property falls neatly into the analysis. However, Mr. McCarty's comparable two sold for \$680,000 and is also inferior to the subject. Mr. McCarty testified that his comparable two was his least favorite comparable and it is an outlier relative to the other sales; two that were chosen as good comparables to the subject by both valuation experts. As such, the Tribunal finds it will disregard Mr. McCarty's comparable two and determine the true cash value of the property for the 2017 and 2018 tax years, without considering excess land, to be \$510,000.⁸²

⁸² The Tribunal is persuaded by Mr. Johns' testimony that a market conditions adjustment is not necessary.

Mr. McCarty added \$75,040 to his conclusion of value for the subject property to reflect excess land than can be sold off, and as such, adds value to the property. The Tribunal finds this analysis to be persuasive. Excess land is “[l]and that is not needed to support the existing use.” “Excess land has the potential to be sold separately and must be valued separately.”⁸³ Mr. McCarty’s land comparables are in PUDs, which is different from the subject B-2 general business district, commercial zoning. PUD is, however, a zoning variance⁸⁴ allowed in commercial zoning. Further, all of Respondent’s land comparables are within .5 miles of the subject property demonstrating their similarity. His comparable one, which he relied upon was only .2 miles from the subject. Mr. Johns testified that he did not do a vacant land analysis, or find the property as vacant to be the better highest and best use than the property as improved, because, among other factors, he could not find vacant land comparables that were not in a PUD. Yet given the close proximity of the comparables to the subject, the Tribunal finds them to be persuasive. As such, the Tribunal finds the true cash value of the subject property for the 2017 and 2018 tax years to be \$510,000 plus \$75,040 or \$585,000, rounded.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property is over assessed. The subject property’s TCV, SEV, and TV for the tax years at issue are as stated in the Introduction section above.

⁸³ Appraisal Institute, *The Appraisal of Real Estate*, p. 200.

⁸⁴ Tr. at 333.

JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax years at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund 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 all pending claims in this matter 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 from the date of entry of the final decision.⁸⁵ 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

⁸⁵ See TTR 261 and 257.

relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.⁸⁶ 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.⁸⁷ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.⁸⁸

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.”⁸⁹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁹⁰ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁹¹

By Preeti P. Gadola

Entered: February 4, 2019

⁸⁶ See TTR 217 and 267.

⁸⁷ See TTR 261 and 225.

⁸⁸ See TTR 261 and 257.

⁸⁹ See MCL 205.753 and MCR 7.204.

⁹⁰ See TTR 213.

⁹¹ See TTR 217 and 267.