STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Comau, Inc.,
Petitioner,

v MTT Docket No. 351412

City of Novi, Tribunal Judge Presiding
Respondent. Marcus L. Abood

FINAL OPINION AND JUDGMENT

Introduction

Petitioner, Comau, Inc., appeals the assessed value, taxable value and true cash value levied by Respondent, City of Novi, against the real property owned by Petitioner for the 2008, 2009, and 2010 tax years. Steven P. Schneider, attorney, appeared on behalf of Petitioner. Stephanie S. Morita, attorney, appeared on behalf of Respondent. Witnesses appeared on behalf of both parties. They include: David D. Bur, real estate appraiser for Comau, Inc.; Eugene Szkilnyk, real estate appraiser for City of Novi.

The proceedings were brought before this Tribunal on July 11, 2011, to resolve the real property dispute.

At issue before the Tribunal is the determination of the assessed value, taxable value and true cash value of Petitioner's real property.

A. The property's state equalized value (SEV), assessed value (AV), and taxable value (TV), as confirmed by Board of Review or on the assessment roll:

Parcel Number 50-22-15-402-002

Year	SEV	AV	TV
2008	$8,927,400	$8,927,400	$8,905,620
2009	$8,780,750	$8,780,750	$8,780,750
2010	$8,069,350	$8,069,350	$8,069,350

B. Respondent's revised contentions of the property's True Cash Value (TCV), SEV, and TV:

Parcel Number 50-22-15-402-002

Year	TCV	SEV	TV
2008	$15,500,000	$7,750,000	$7,750,000
2009	$15,000,000	$7,500,000	$7,500,000
2010	$14,400,000	$7,200,000	$7,200,000

C. Petitioner's contentions of the property's True Cash Value (TCV), SEV, and TV:

Parcel Number 50-22-15-402-002

Year	TCV	SEV	TV
2008	$11,700,000	$5,850,000	$5,850,000
2009	$10,700,000	$5,350,000	$5,350,000
2010	$ 9,700,000	$4,850,000	$4,850,000

D. The Tribunal finds the values shall be:

Parcel Number 50-22-15-402-002

Year	TCV	SEV	TV
2008	$11,600,000	$5,800,000	$5,800,000
2009	$10,800,000	$5,400,000	$5,400,000
2010	$ 9,500,000	$4,750,000	$4,750,000

Background and Introduction

At issue for the tax years is the true cash value, assessed value and taxable value for the property located at 43900 and 44000 Grand River Avenue, Novi, Michigan. The subject parcel of land is located in the city of Novi and within Oakland County, south of I-96 and west of Novi Road. The subject property is comprised of two buildings with a total of 486,015 square feet.

The improvements were constructed in 1954 and 1992. The property was purchased by Petitioner from Societe Generale Financial for $14,427,922 on December 21, 2006.

Petitioner's initial appeal was received by the Tribunal on June 3, 2008. Petitioner filed motions to amend to include subsequent tax years 2009 and 2010, which were granted by the Tribunal.

Petitioner's Arguments

Petitioner contends that the 2008, 2009 and 2010 state equalized and taxable values levied against the subject property exceed fifty percent (50%) of the property's true cash value as evidenced by the market income the subject property could generate and sales of comparable properties.

Petitioner's first witness was David Bur, MAI appraiser, called to discuss the valuation of the property. Mr. Bur is a certified general licensed real estate appraiser in the state of Michigan. Mr. Bur is a member of the Appraisal Institute and is familiar with appraisal standards and ethics.

The majority of his work is concentrated in the state of Michigan. He appraises commercial properties, including apartment buildings, office buildings, shopping centers and industrial buildings.

Mr. Bur described the Detroit Metropolitan market area, indicating that population numbers are expected to decrease from 2010 to 2015. Conversely, unemployment has increased in southeast Michigan.

Mr. Bur described various elements of the subject site as well as the building improvements. Various photographs were described to illustrate the physical nature of the building improvements. Access to the building is from Grand River Avenue. The subject building has overhead doors that are level at road grade. In other words, there are no dock high doors for shipping and delivery purposes.

Mr. Bur testified to the steps he took in appraising the subject property. He inspected the property and interviewed the property owners. Regarding the initial analysis, Mr. Bur considered the cost approach; however, this approach was not developed because of the age of the building. The income and sales comparison approaches were developed to arrive at a final conclusion of value for the subject property.

Rental data of industrial buildings was analyzed for the initial phase of the Income Approach. Mr. Bur reviewed Costar resources to develop vacancy and credit loss as well as capitalization rates in this approach to value. The applied vacancy and credit loss percentage for each year under appeal is 10%. Overall, income values went down because rents declined and cap rates increased.

Regarding the capitalization rate analysis, Mr. Bur states, “Although location impacts the capitalization rate, it has a very small impact on capitalization rate, and a lot of these properties sold in similar areas to Novi.” Volume 1, TR pp 90-91.

Mr. Bur agrees that the subject would sell to an owner-occupant. On cross-examination, Respondent asks, “Would you say, Mr. Bur, that just based on your own sales comparables that it’s more likely that a property such as the subject in this case would be sold to an owner/occupant?” *Answer:* “Yes, I agree that there’s a greater likelihood that it would be sold to an owner/occupant than an investor.” Volume 1, TR p 165.

Within the Sales Comparison Approach, industrial sales data was analyzed to the subject property. The subject building is extremely large. “There’s less demand for facilities this large than for smaller facilities. And the property has an impaired functional layout, I call it. It’s divided into two buildings, which affects the use of the building for a tenant.” Volume 1, TR p 95. All of the sales were fee simple as opposed to leased fee properties. Leased fee properties are investor motivated with tenants for an income stream. Moreover, Petitioner believes leased fee sales are biased as the leases are set outside of the relative tax dates.

Petitioner contends that Respondent’s sales comparison approach is not properly applied or analyzed. Specifically, Respondent’s sales comparison approach revolves around a singular adjustment for market conditions at 3% per year. Petitioner argues that the comparable sales are located in submarkets with greater differences in market conditions. The market conditions adjustment should be based on the Detroit Metropolitan market area and not based on the Novi submarket.

Respondent’s Arguments

Respondent maintains that the subject property has either been under-assessed for some of the years in question and that the taxable value should be increased, and/or the property has been properly assessed.

Respondent’s first witness was Mr. Eugene Szkilnyk, a certified general real estate appraiser in the State of Michigan. Mr. Szkilnyk has been appraising commercial properties in the state of Michigan since 1989.

Mr. Szkilnyk described the condition, quality and design of the subject buildings. He had assessor’s records to determine the total gross building area. Further, he verified this information by personally measuring the buildings. Calculations also included the ceiling heights of the building. The clear heights are an important characteristic because this is a crane building. Mr. Szkilnyk states, “Well, you need clear ceiling heights because the manufacturing process in a crane building is they’re moving heavy objects, usually very large objects, and you need a crane way to be able to do that.” Volume 2, TR p 181.

The subject property is best suited for an owner/occupant. An investor would not buy this building and then try to rent it out. Mr. Szkilnyk states, “A developer might drive by this property and see its features and its positives and negatives, and if he has a potential tenant in his pocket – they call it in his pocket – then he would concurrently buy this building and then lease the building immediately after acquiring the property.” Volume 2, TR p 187. A prudent buyer would not buy this building vacant and then sit on it.

Respondent utilized Costar analytical reports to support the adjustments for rental and sales data. The Marshall-Swift Valuation Service was also used to analyze cost differences for building components. Mr. Szkilnyk researched Costar to create a trend line from the Detroit area market data. The overall trend showed a market decline of 8-12% for each year from 2005 to 2009. Mr. Szkilnyk went a step further and analyzed data in the I-96 corridor, which is more specific to the subject’s location. This resulted in a 5.5% decline in values every year along that corridor.

> And I did it – I did a third level of refinement. I took out smaller buildings, less than thirty thousand square feet, just to see if that would change it. That showed a decline on an annual basis for that analytical period of roughly three to four percent a year. And so I concluded in the sales comparison approach for market conditions a decline of three percent per year. Volume 3, TR p 6.

Mr. Szkilnyk refers to Petitioner’s market conditions adjustment of 10% as a shotgun method that analyzes all industrial data in the Detroit market area. It is necessary to refine the data to the subject's specific location.

Mr. Szkilnyk did not make any adjustments between warehouse and crane sales. The prices per square foot are relatively similar. Further testimony was given about the characteristics of crane ways and loading doors off-set on another in the adjustment analysis. "Warehouse buildings have unique features all to themselves. That's not in dispute. But on the flip side of that coin there's unique features on crane buildings, as well. I think both features offset each other and that's why I made no adjustment for that." Volume 3, TR p 175.

Mr. Szkilnyk has never seen lease-up costs applied to a single user, owner-occupied building. Lease-up costs are typically applied to multi-tenant buildings. ". . . But never have I seen an article in my research that would make a deduct for cost to stabilize for a single tenant or an owner-occupied building. It's always pertaining to a multi-tenant building . . ." Volume 3, TR 26. According to Mr. Szkilnyk, including the total amount of leasing commissions as part of the direct capitalization methodology is inappropriate.

Mr. Szkilnyk used both single and multi-tenant buildings as rental comparables. All of the rental comparables are signed leases. None of the rental comparables were listings. The only adjustment made to the rental comparables was for market conditions. A location adjustment was not made to the rental comparables. The location for larger industrial buildings is not as significant. Larger buildings have a bigger market reach.

Within the Income Approach, Mr. Szkilnyk does not show unrecovered expenses. These expenses are not recovered under a triple net lease situation. This would also be the case for management fees. Unrecovered expenses are typically applied in analysis of multi-tenant properties.

> Single tenant – sometimes we simplify the analysis and we assume – adjust the income and management and reserves. Because when the property is either vacant or leased and so there's – we don't do the accounting process of recovery and expenses. But in triple net lease properties when there's multi-tenant, the property is very dynamic so people are leaving. And so then when they leave, the unit's vacant, the landowner has to absorb – he absorbs the cost. And so you have this dynamic of people moving in and moving out so we do account for that. But in single tenant we don't do that. Volume 3, TR p 58.

Mr. Szkilnyk testified that the subject property would most likely be purchased by an owner-user; therefore, the sales comparison approach was given the most weight in his final analysis.

Tribunal's Findings of Fact

The subject property is located within the city of Novi and within Oakland County. Specifically, the subject property is located south of I-96, east of Lannys Road, north of Grand River Avenue and west of Novi Road. The subject is an industrial use property with gross building area of 486,015 square feet. The site has 42.33 acres or 1,843,895 square feet. The subject property is accessed from Grand River Avenue. The subject property is directly west of the former Novi Expo Center property. The subject property suffers from functional depreciation due to the size and age of the improvements.

The subject property is an owner-occupied building. The subject property has never been occupied by a tenant.

Both parties have presented valuation disclosures in the form of appraisal reports. Each appraiser has claimed compliance with appraisal standards and ethics. Petitioner's appraiser, Mr. David Bur, is a certified general real estate appraiser in the state of Michigan. Respondent's appraiser, Mr. Eugene Szkilnyk, is a certified general real estate appraiser in the state of Michigan.

Petitioner’s appraiser observed the property on January 29, 2009, August 12, 2009, and October 26, 2010. Mr. Bur developed the income and sales comparison approaches to value.

Respondent’s appraiser observed the property on December 3, 2010. Mr. Szkilnyk developed the income and sales comparison approaches.

The parties have analyzed the Detroit Metropolitan market area, which is characterized as southeast Michigan. Both parties have concluded that the overall market decline is 8-10% annually from 2005 to 2010.

Both parties assume the subject property would sell to an owner-user and not to an investor.

The parties utilized similar rental and sales data. Specifically, the parties have used the rental comparable located at 24400 Glendale Road and the sale comparable located at 16445 Twenty Three Mile Road. Petitioner’s original valuation disclosure denotes the sale price of 16445 Twenty Three Mile Road as $8,200,000; the corrected report denotes a sale price of $6,800,000. Respondent’s valuation disclosure shows the sale price for 16455 Twenty Three Mile Road as $7,300,000.

Conclusions of Law

Pursuant to Section 3 of Article IX of the State Constitution, the assessment of real property in Michigan must not exceed 50% of its true cash value. The Michigan Legislature has 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 the assessment, being the price which could be obtained for the property at private sale, and not forced or auction sale. See MCL 211.27(1). The Michigan Supreme Court in *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450 (1974), has also held that true cash value is synonymous with fair market value.

In that regard, the Tribunal is charged in such cases with finding a property's true cash value to determine the property's lawful assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767 (1981). The determination of the lawful assessment will, in turn, facilitate the calculation of the property's taxable value as provided by MCL 211.27a. A petitioner does, however, have the burden of establishing the property's true cash value. See MCL 205.737(3) and *Kern v Pontiac Twp*, 93 Mich App 612 (1974).

> The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law...The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%....; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963 Art IX, Sec 3.

The burden of proof in a tax matter encompasses two 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." *Great Lakes Div of Nat'l Steel Corp*, 227 Mich App 379; 576 NW 2d 667 at pages 404-409 (1998). The Tribunal has a duty to make its own independent determination of true cash value only when the plaintiff has met its burden of going forward with the evidence. *Id*. at 410. In this instance, Petitioner has provided a valuation disclosure to show that the subject property was improperly assessed. This valuation disclosure was presented as an appraisal report that is purported to comply with professional standards and ethics. The appraisal report is communicated as a "summary appraisal report." Specifically, the appraisal report develops two approaches to value – the

Income Approach and the Sales Comparison Approach. The Cost Approach was omitted from analysis.

Petitioner's appraiser, Mr. Bur, testified that the effective dates for the appraisal report were set forth in a "retrospective" fashion. Mr. Bur inspected the subject property on January 29, 2009, August 12, 2009, and October 26, 2010; however, he has no basis or knowledge of the subject property as of December 31, 2007 or December 31, 2008. Mr. Bur was unable to personally attest to the condition of the subject property as of those dates. Since Mr. Bur was unable to personally inspect or verify the condition of the subject property as of those dates, an "extraordinary" assumption must be made. Extraordinary Assumption is defined as "an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions." (The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice*, Washington DC: 2010-2011 edition), p U-3. Mr. Bur's belief for omitting conditions or assumptions is not valid. He assumes that his various inspection dates are sufficient to justify the condition of the subject's improvements for all three years.

Petitioner has developed an income approach to value. Mr. Bur initially gathered rental data to arrive at a rental rate for the subject property. However, he does not consistently analyze this rental data. For example, comparable rental 3 (24400 Glendale) is located in Redford Township. For the December 31, 2007, rental adjustment grid (page 51 of appraisal report) this rental comparable is adjusted for the differences in location (+ 5%) and in size (- 5%). Mr. Bur uses this same property as comparable sale 7 for the December 31, 2008, sales adjustment grid (page 89 of appraisal report). Strangely, the location adjustment for the comparable sale is a plus 10% and the size adjustment is a negative 10%. Mr. Bur did not give any testimony for this discrepancy in adjustments for the same characteristics. Overall, Mr. Bur develops a separate set of characteristics and adjustments for the rental comparables from the sales comparables. These differences indicate a lack of market support for the adjustments.

Mr. Bur admits to the distinction between a single-tenant property and a multi-tenant property in the income analysis. On cross-examination, the question was asked, "Where is the adjustment Mr. Bur, in your adjustment grid for the fact that some of these leases are for multi-tenant properties?" Volume 1, TR p 161. Mr. Bur responded, "There would be no adjustment for that. A tenant who is an industrial tenant who is leasing in a multi-tenant building is not going to pay a different amount of rent than a lease in a single-tenant facility." Volume 1, TR p 162. Regardless of this distinction, Petitioner's appraiser applied both types of tenancy in the income analysis.

Mr. Bur's testimony regarding lease-up costs is not convincing. On cross-examination, Respondent asks, "Mr. Bur, when I see an appraiser utilize a lease-up cost in an income approach before – well, let me ask you. When do you usually use a lease-up cost in an income approach?" *Answer:* "I use a lease-up analysis when a property is either vacant or – vacant or it's not occupied by a tenant, or it's not at a stabilized occupancy. It's partially occupied by some tenants but it's not stabilized." Volume 1, TR p 165. In this case, the subject is neither vacant nor tenant-occupied. The subject is occupied by an owner-user. Mr. Bur assumes a hypothetical condition that is contrary to the existing building occupancy. Mr. Bur's assumption in order to justify lease-up costs is not reasonable. Moreover, the combined elements of lost income, leasing commissions, and tenant improvements to arrive at lease-up costs is excessive regarding the analysis of a single-tenant occupancy. In testimony, Mr. Bur agreed that there is a greater likelihood that the subject would be sold to an owner-occupant than an investor. Petitioner's assumption and application of lease-up costs to a single-owner/user building is not understandable or persuasive. Respondent asks, “Do you recognize, Mr. Bur, that the way you wrote this report, at least in regard to your lease-up costs description, it may be somewhat confusing?” *Answer:* “Yes.” Volume 2, TR p 92. Therefore, Petitioner’s income approach is given no weight or consideration in the final opinion of value.

Petitioner has developed a sales comparison approach to value. All of the comparable sales are fee simple properties with industrial zoning. Petitioner has a specific write-up for each comparable sale in its valuation disclosure. Within each comparable write-up, the zoning is generically denoted as industrial. Petitioner’s appraiser admits that each comparable sale has a more specific zoning code. Zoning distinctions were not shown in Petitioner’s sales comparison adjustment grids. Petitioner treated all of the comparable sales as industrial use properties. The impact of specific zoning as well as types of industrial buildings was treated the same way by both appraisers; however, Petitioner questions Respondent’s lack of adjustments between differently zoned industrial comparables. Petitioner’s lack of zoning specifications and adjustments is no different than Respondent’s omission of such elements.

Petitioner’s sales comparison analysis includes inconsistent sales data. For example, Mr. Bur originally reported the sales price for sale 3 located at 16445 Twenty Three Mile as $8,200,000. Mr. Bur’s “corrected report”, however, stated a sales price of $6,800,000. Mr. Bur explained his reason for changing the sale price and submitting a new appraisal report.

> My client stated to me that eight point two million was the book value of the property and the listing price. And that his understanding was they didn’t want to take a loss on the property, and so eight point two million must have been correct for what they sold it for. Volume 1, TR p 229.

Mr. Bur received financial information from Tom Sventickas, tax director for Comau, Inc. Mr. Bur then independently verified financial information from the same source.

Independent verification of information does not occur from the same source of information.

Mr. Bur's testimony about adjustments for the differences in warehouse, heavy industrial buildings, and crane-ways is puzzling. Mr. Bur testifies, "No, that's not what I'm saying at all. I thought you were referring to a question about having a crane or a warehouse not having a crane and there would be no adjustment for a warehouse not having a crane." Volume 1, TR p 246.

Petitioner has analyzed eight sales for the three years under appeal. None of the eight sales are adjusted for conditions of sale. Sale 6 located at 17801 Fourteen Mile Road is identified as an arm's length sale by Mr. Bur. Respondent referred to the Costar report for this property, which is marked as Exhibit R-10, page 72. "If you go down to the bottom under transaction details on the left-hand side, and you've got sale date, asking price, percent lease, tenancy, and then sale conditions, can you tell the Tribunal what it says?" *Answer:* "Distressed sale." Volume 1, TR p 260. Additional confusion is raised over the square footage of this comparable sale. Respondent asks Mr. Bur about the sources used to verify the square footage. "Okay. So you have in your file three different indications of square footage for East 14 Mile property?" *Answer:* "Correct." It is not uncommon for an appraiser to have various sources of information for an analyzed sale. Further, there may be conflicting information such as the square footage of a building. The appraiser has the responsibility to verify this information to determine its reliability. There is no oral or written testimony from Mr. Bur as to the basis for choosing one noted square footage over any other different square footage for this comparable sale.

Petitioner's sales comparison approach has inconsistencies and contradictions. This diminishes the reliability and credibility of the conclusion of value. Therefore, Petitioner's sales comparison approach is given no weight or consideration in the final opinion of value.

Petitioner's final reconciliation of the sales comparison approach and the income approach is not clear and consistent to the Tribunal. This reconciliation is complicated by Petitioner's corrected valuation disclosure marked as P-1. Respondent submitted into evidence Petitioner's initially submitted valuation disclosure marked as R-6. Petitioner's appraiser testified to giving slightly more weight to the sales comparison approach; however, Mr. Bur's report says otherwise: "The sales comparison approach is given significant consideration in the final estimate of value." Exhibit P-1, page 95 and Exhibit R-6, page 95. In further testimony, Mr. Bur goes on to say, "Your Honor, the way I wrote that – meant to write that is it's given more weight than the income approach, which is given less weight. So I'm sorry if that reads differently to you. But to me that means I'm giving more weight to the sales comparison approach." Volume 2, TR p 55.

Petitioner's original valuation disclosure was submitted on January 28, 2011. Petitioner submitted a revised valuation disclosure on February 3, 2011. Petitioner's efforts to submit a corrected report was for the sole purpose of changing the sale price to Sale 3 (16445 Twenty Three Mile Road). As a result, the final opinions of value changed. Petitioner's appraiser did not signify that any other changes were made to the 2nd report. For example, both reports have outdated sources for appraisal definitions. No other changes or modifications were made between the two appraisal reports. As important, Petitioner's appraiser does not acknowledge that a change was made to Sale 3's sale price in the revised report. In other words, Mr. Bur did not disclose any correlation to the first appraisal report. The corrected report stands by itself as though there were no other prior appraisal reports. The Tribunal is unclear whether the appraiser intended to create a new report or submit a revised report. Simply, a corrected report would make reference to a prior report. The appraiser does not reconcile the two reports. Therefore, the Tribunal places no reliance on Petitioner's valuation disclosures.

Again, Petitioner claims its appraisal report satisfies standards and ethics. Mr. Bur has developed and communicated an appraisal report that says otherwise. Mr. Bur's report omits or fails to support several necessary elements that are common in appraisal practice and appraisal theory. Knowing what the appraiser did to arrive at the opinions, analyses, and conclusions is the very essence of ethical compliance.

Petitioner must prove that its applied approaches are more credible and thus meet its burden of proof. Petitioner is unsuccessful in this regard. Petitioner's opinions, analyses, and conclusions are not reasonably supported. Moreover, Petitioner's valuation disclosure is not meaningful and is misleading. This diminishes the reliability and credibility of Petitioner's appraisal report.

Respondent has developed the income and sales comparison approaches to value. The cost approach was not developed because of the age of the subject property. Therefore, this approach to value is not given any weight in this opinion.

Respondent acknowledges various typographical errors within its valuation disclosure. Mr. Szkilnyk did not attempt to create a new valuation disclosure or corrected report. He gave oral testimony to those noted items. His changes or revisions did not impact his final opinions of value.

Respondent's sales comparison approach analyzes six comparable properties. Four of the comparables are sales; two of the comparables are listings for sale. Mr. Szkilnyk primarily analyzes the comparable data relative to market conditions. The comparables are adjusted for the difference of market conditions at 3% per year. Characteristics such as location, access, size, parking, land-to-building ratio, and quality are left unadjusted. Mr. Szkilnyk explains his rationale for not applying several adjustments.

> Well, the founder of the company was Roland D. Nelson. He taught me back about fifteen, twenty years ago that if you can't explain away or support an adjustment, you don't make the adjustment. He actually would say it's pure fakery to make adjustments you can't support. So he told me that fifteen, twenty years ago, so I took it to heart. So I don't make adjustments that I either cannot support through market data or some kind of other market supporting information then I can justify that adjustment. So therefore I didn't make that many adjustments, only the ones I felt comfortable with. Volume 2, TR pp 219-220.

Respondent's appraiser overlooks the distinction between qualitative and quantitative adjustments in sales comparison analysis. Some elements of comparison are properly supported by quantitative adjustments. Such an example is the size or square footage of a building. There are certain other characteristics that are not adjusted with a mathematical component. Qualitative adjustments may be derived from bracketing, relative comparison analysis, and ranking analysis. These methodologies are meaningful in appraisal practice and appraisal theory. Respondent's disregard for qualitative analysis diminishes the reliability and credibility of the sales comparison approach.

Mr. Szkilnyk's primary adjustment to the comparable sales is a conditions adjustment. Petitioner questioned the application of only a 3% adjustment for industrial properties in the Detroit Metropolitan market area. Mr. Szkilnyk differentiates the comparables' submarkets to the subject's Novi submarket; however, none of Mr. Szkilnyk's comparable sales are located in the Novi submarket. This adjustment was tailored to the subject's submarket and not to the overall market. Moreover, Petitioner's contention for this adjustment raises the issue of a location adjustment. Respondent's reasoning for a market conditions adjustment absent the necessity of other elements of adjustments is not substantiated. Therefore, the Tribunal is unable to rely on Respondent's development of the sales comparison approach to value.

Respondent next develops an income approach to value for the subject property. Mr. Szkilnyk uses three industrial rental comparables to derive an indication of rent for each year under appeal. The rental comparables are large industrial buildings located in the Detroit Metropolitan market area. All three rentals are similar to the subject in gross building area.

Respondent's elements of analysis within the income approach were properly developed and applied. The concluded rents per square foot, vacancy/credit loss, and base capitalization rates were derived from IRR-Viewpoint, Korpacz, Costar and Data Point (an internal database) for industrial properties. The analysis reflects relevant market conditions for the particular years under appeal. The elements of income analysis were not stabilized. For example, the vacancy and credit loss for 2008, 2009 and 2010 was 8%, 8% and 12%, respectively. This is contrary to Petitioner's vacancy and credit loss of an assumed stabilized 10% for each year. In addition, Respondent made a net total deduction of $115,000 for each year based on parking lot repairs. The subject's elements of income analysis were applied to the market as a single-owner/occupant industrial property. The subject was not analyzed as a multi-tenant industrial property.

No valuation disclosure is perfect. The Tribunal is able to look beyond superficial grammatical errors. Again, in testimony, it was shown that Respondent's report had several typographical errors. Respondent's appraiser testified to noted corrections within the appraisal report. Respondent did not attempt to create a 2nd report to illustrate these corrections. Respondent's corrections did not change or affect its final opinions of value. On the other hand, Petitioner's need to submit a corrected appraisal report causes confusion and uncertainty relative to its value conclusions.

The Tribunal finds that Petitioner was not able to show that the property was over-assessed for the tax years at issue. As such, and in light of the above, the Tribunal finds that Petitioner has failed to meet its burden of going forward with competent evidence on the issue of true cash value, assessed value, and taxable value. Respondent's rental comparison adjustments within the income approach were not questioned by Petitioner. The overall elements of income analysis were acknowledged and accepted by Petitioner in closing arguments. Respondent has provided credible documentary evidence and testimony to support the subject property's values for the tax years at issue and, as such, the Tribunal finds that Respondent's income approach to value is fair and reasonable.

Judgment

IT IS ORDERED that the original assessments at issue are MODIFIED.

IT IS FURTHER ORDERED that the property's values for the tax years at issue shall be 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 as required by this Order within 28 days of the entry of this Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. 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 the Tribunal's order. As provided in 1994 PA 254, being MCL 205.737, as amended, interest shall accrue for periods after March 31, 1985, but before April 1, 1994, at a rate of 9% per year. After March 31, 1994, but before January 1, 1996, interest rate of the 94-day discount treasury bill rate for the first Monday in each month plus 1%. As provided in 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods after January 1, 1996 at an interest rate set each year by the Department of Treasury. Pursuant to 1995 PA 232, interest shall accrue (i) after December 31, 2006 at the rate of 5.42% for calendar year 2007, (ii) after December 31, 2007 at the rate of 5.81% for calendar year 2008, (iii) after December 31, 2008, at the rate of 3.31% for calendar year 2009, (iv) after December 31, 2009, at the rate of 1.23% for calendar year 2010, and (v) after December 31, 2010, at the rate of 1.12% for calendar year 2011.

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

MICHIGAN TAX TRIBUNAL

Entered: October 17, 2011 By: Marcus L. Abood