

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

FGY, Inc.,  
Petitioner,

v

MTT Docket No. 365693

City of Niles,  
Respondent.

Tribunal Judge Presiding  
Victoria L. Enyart

**OPINION AND JUDGMENT**

Introduction

Petitioner, FGY, Inc., appeals the ad valorem property tax assessment levied by Respondent, City of Niles, against the real property owned by Petitioner for the 2009, 2010, and 2011 tax years. Shawn J. Jappaya, attorney at Jappaya Law, PLC, appeared on behalf of Petitioners. Michael D. Homier, attorney at Foster, Swift, Collins & Smith, P.C., appeared on behalf of Respondent.

A hearing on this matter was held on February 22, 2012. Petitioner's witness was Laurence G. Allen, MAI. Respondent's witnesses were David A. Waszak, MAI, and Cindy Closson, CMAE 3.

Summary of Judgment

Petitioner contends the values should be as follows:

Parcel No. 11-73-5250-0028-01-1

Year	TCV	Petitioner	
		SEV	TV
2009	\$775,000	\$387,500	\$387,500
2010	\$665,000	\$332,500	\$332,500
2011	\$565,000	\$282,500	\$282,500

The City of Niles has assessed the property on the tax roll as follows:

Parcel No. 11-73-5250-0028-01-1

	Respondent		
Year	TCV	SEV	TV
2009	\$1,844,600	\$922,300	\$801,009
2010	\$1,407,400	\$703,700	\$703,700
2011	\$1,350,400	\$675,200	\$675,200

In addition, the City of Niles has an appraisal and agrees that the subject property is over assessed; Respondent's revised values are as follows:

Parcel No. 11-73-5250-0028-01-1

	Respondent	Appraisal	
Year	TCV	SEV	TV
2009	\$1,450,000	\$725,000	\$725,000
2010	\$1,400,000	\$700,000	\$700,000
2011	\$1,350,000	\$675,000	\$675,000

Based on the evidence, testimony, and case file, the Tribunal finds that Petitioner has met its burden of proof in establishing the subject property's true cash value, and further finds the true cash values ("TCV"), the state equalized values ("SEV"), and the taxable values ("TV") of the subject property for the years under appeal are as follows:

Parcel No. 11-73-5250-0028-01-1

	Respondent	Appraisal	
Year	TCV	SEV	TV
2009	\$926,200	\$463,100	\$463,100
2010	\$813,400	\$406,700	\$406,700
2011	\$639,400	\$319,700	\$319,700

### Background

At issue is the true cash value for the Niles Inn located at 930 South 11<sup>th</sup> Street, Niles, Berrien County, Michigan. The property has one parcel number with a motel that the parties stipulated should be razed. The parcel has a total of 4.39 acres.

The parties stipulated to the highest and best use, which was to raze the existing motel, and hold the vacant land for development. The stipulated cost to raze was \$225,000. Both appraisers valued two parcels; however, only 4.39 acres (4.83 acres is the original acres valued) and one parcel identification number was appealed. The result is a reduction in the appraised value. The exhibits and expert witness status was also stipulated to by the parties. This shortened the hearing, and narrowed the issue to the true cash value of 4.39 acres of vacant land located on South 11<sup>th</sup> Street.

### Petitioner's Arguments

Petitioner believes that the true cash value of the subject property for the tax years at issue should be reduced based on Petitioner's appraisal.

Petitioner's Exhibits admitted:

P-1 Respondent's property record cards.

P-2 Petitioner's appraisal by Allen and Associates.

Petitioner called Cindy Closson, Michigan Advanced Assessing Officer (3), as an adverse witness. Closson is the assessor for the City of Niles. She explained that, as an assessor, when calculating the land value for the subject property a mass basis was used. She takes sales of commercial properties and calculates the value of properties and applies the same land value rate to all of the commercial properties within a specific neighborhood. She explained that she has divided the commercial properties into three specific commercial neighborhoods: South 11<sup>th</sup> Street, South Bend, and Downtown. Closson testified that she has valued the land for the subject parcel at \$789,400 for 2009, and \$1,148,200 for both 2010 and 2011. She further explained that commercial land value increased for tax year 2010, but was stagnant for 2011.

Petitioner asked if the demolition of the improvements would decrease the land value she had calculated. Closson responded that the land value was calculated based on sales of vacant land.

Petitioner's valuation witness was Laurence G. Allen, MAI, who prepared an appraisal for the subject property for all three years. He explained that his appraisal meets USPAP requirements. The appraisal for the land as if vacant was based on the sales comparison approach.

Allen visited all of the comparable sales, spent the night at the motel, and spoke to multiple brokers in the area who are familiar with the sale to verify the data. He testified that the subject property has not sold, but is currently under contract for \$660,000 for the real and personal property. This was not a closed sale, but pursuant to USPAP requirements, is reported. He explained that he received the purchase agreement for the subject property the week prior to the hearing.

Allen went through each of the sales in detail. He opined that the size of vacant land for commercial properties is an important consideration as there is a stronger demand for ½ to 1 ½ acre parcels. He indicated that the fast food restaurants, banks, and service stations do not have a need for the larger parcels. Allen based this observation from his years of experience, conversation with brokers, as well as a study of land sales throughout Michigan. The highest and best use of larger acreage parcels changes; they typically sell for development as strip centers, the more intense retail users. Parcels closer to big box developments sell for a premium. Allen indicated that the subject

property is not adjacent to the big box (Lowe's and Wal-Mart) area of 11<sup>th</sup> Street (2100 Block of 11<sup>th</sup> Street).

Allen discussed the economic decline that began in 2008, which influenced the market. Property values plummeted in 2009. The subject property is located on a corridor to South Bend, Indiana, which is five miles to the south. Notre Dame University and St. Mary's University are an influence on this Michigan border community.

The following four sales<sup>1</sup> were utilized by Allen for all the years in contention:

Petitioner as of 12/31.2008

Sale No.	1	2	3	4
Address	1244 S 11th	1260 S 11th	1000 Moore	1236 11th
Sale Date	Sep-08	Jun-10	Jul-09	Offering
Sale Price	\$233,500	\$190,000	\$265,000	\$249,000
Size/Acres	0.60	0.89	1.65	0.87
SP/SF	\$8.93	\$4.90	\$3.69	\$6.57
Adjustments				
Cond of Sale		1.10		
Mkt Conditions		1.17	1.06	0.08
Size	0.66	0.71	0.81	0.71
Utility			1.50	
Adj/SP SF	\$5.89	\$4.52	\$4.73	\$4.12

All of the comparable sales were adjusted for difference in market conditions between the comparable sales and the dates of value for the subject property. As a result of discussions with local brokers in the area, the price changes in land value over the dates of the appraisal is a 17.5% decrease in land pricing from September 2008 to June 2010. This was used as the baseline for market adjustments by Allen.

<sup>1</sup> The adjustments for each year changed for market conditions. The Tribunal uses tax year 2009 for illustrative purposes.

Upon cross-examination, Allen admitted that he should have added the demolition costs to Sale 1, which was a Hot and Now and currently is Subway and Pizza.

Sale 2 was a bank-owned sale and was adjusted upward due to the short marketing time and inherent lower than marketing pricing typical for bank-owned properties.

Allen explained that Sale 3's lack of frontage on South 11<sup>th</sup> Street required an additional adjustment. Sale 3 is set back from South 11<sup>th</sup> Street, and based on a paired sales analysis, it was adjusted upward to reflect its inferior location. This property is adjacent to Respondent's Sale 2, a larger Carter Lumber parcel that was split. Petitioner's Sale 3 is a Holiday Inn Express.

Sale 4 is a listing and was adjusted downward for the listing price. It was still listed for sale at a reduced price at the time of the hearing.

Allen explained adjustments for the smaller lots. Because the smaller lots draw from a larger pool of potential buyers, they sell for a higher dollar per square foot, and therefore require a negative adjustment.

Allen provided two older sales that he found to affirm the value for the neighborhood, as well as two current listings that have been on the market since 2009. One of the listings is a property adjacent to the subject property; its asking price is \$6.89 for 4.99 acres. The second listing is located adjacent to the state line with 3.5 acres and is listed at \$6.89 per square foot.

Allen testified that he considered but did not use the vacant land sales that were in close proximity to the big box stores. They sold for \$10 to \$10.50 per square foot versus the \$6.00 to \$7.00 per square foot for properties in the subject's area. The big box stores draw shoppers from a larger regional area than do the local retailers.

Allen was not aware of Respondent's Sale 2 located on South 11<sup>th</sup> Street adjacent to his Sale 3, as his research did not bring up that sale. He thought it would most likely be a good sale to consider. Allen testified that if he had been aware of Respondent's Sale 2, he would have made adjustments for market conditions, and 15% decrease to result in \$4.39 a square foot.

Allen then opined on the sales that Respondent used. He stated that Respondent's Sale 1 was a bit high, because it was around the 2008 economic decline. Sales 3 and 4 were not the best sales due to the close proximity to the Lowe's and Wal-Mart stores. Allen was aware that Respondent's Sale 4 was sold and relisted at \$10.25 a square foot. This parcel is located adjacent to Lowe's.

Although not found in the appraisal, Allen relied on discussions with unnamed brokers. One was Jim Riggler from Grubb and Ellis. Allen further supported the decline in value for vacant commercial property based on personal knowledge and his experience of land trends in the state.

Allen defended the decline in the listing price based on the broker estimate of what Comparable 4 would actually sell for; it was listed for the years under appeal. He believes that listings give the upper limit of value. The end result generally should not exceed asking prices.

Allen explained that he used appropriate sales for the subject neighborhood. He revised his true cash value based on less acreage.

#### Respondent's Arguments

Respondent argues that the vacant land has not declined for this valuable corridor from Michigan to Indiana. This location is eight miles from the Indiana turnpike and is well traveled. Respondent's appraiser has lived in Niles for 22 years making him familiar with the area and aware of the local market. Respondent believes that the appraisal by Waszak is more reflective of the commercial corridor reflecting the true cash value of the subject property.

Respondent's Exhibits admitted:

- R-1 Appraisal by David A. Waszak, MAI.
- R-2 Appraisal Report by Allen & Associates.
- R-3 City property record card.
- R-4 Sketch of subject property.

David A. Waszak, MAI, prepared a valuation disclosure for the subject property. He testified that South 11<sup>th</sup> Street is the linkage to South Bend, Indiana, as well as to tourist areas. The location on 11<sup>th</sup> Street in Niles has not suffered as severely as the rest of the State of Michigan. He has prepared thirteen appraisals of properties located on 11<sup>th</sup>



Street, the latest one being one year ago. He indicated that the location of the subject property adds to its stability in the market.

Waszak discussed his sales and the specific adjustments. Using a paired sales analysis of a 2002 sale of 1137 South 11<sup>th</sup> Street and the 2008 sale of 1244 South 11<sup>th</sup> Street, a growth of 4% a year was indicated. Waszak believed that the economy was stronger in 2002 and utilized 3% a year adjustment for market conditions.

The only sale that required an adjustment for conditions of sale was Sale 1, 1260 South 11<sup>th</sup> Street, because it was a bank sale. Waszak matched it with Sale 2 to support a 50% adjustment for the deed in lieu of foreclosure action.

Waszak explained that Sale 5 required an adjustment for the less than one acre size. He compared Sale 5 to Sale 3, which is similar in size to the subject property. This resulted in a 10% adjustment for the expectations that an investor would pay more per unit for the smaller size.

Waszak's sales grid is as follows<sup>2</sup>:

Respondent as of 12/31/2008

Sale No.	1	2	3	4	5
Address	1260 S 11th	2018 11th	2108 11th	2045 11th	1244 11th
Sale Date	Jun-10	Sep-09	Aug-08	Apr-08	Sep-08
Sale Price	\$190,000	\$450,000	\$1,500,000	\$592,416	\$233,500
Size/Acres	0.89	1.96	4.35	1.70	0.60
SP/SF	\$4.90	\$5.27	\$7.92	\$8.00	\$3.22
Adjustments					

<sup>2</sup> The Tribunal converted the grid to dollar per square foot for continuity. Waszak used acres as the basis for his adjustments.

Cond of Sale	0.5				
Mkt Conditions		0.03	0.06	0.06	0.6
Size					0.1
Utility		\$5.43	\$8.75	\$8.48	
Adj/SP SF	\$6.99	\$5.43	\$8.75	\$8.48	\$8.71

Sale 1 was a Mom and Pop restaurant in the front acreage and the body shop on the rear acreage. The property was split because the son had a body shop in the rear, and the front acreage was foreclosed. The existing building was razed. Waszak estimated the cost to raze was \$5,788.

Sale 2 is the front parcel of land subdivided by the developer. It was a former Carter Lumber property. The back one-half of the property was sold to develop the Holiday Inn Express (it is Petitioner's Sale 3).

Sale 3 is the closest in acreage to the subject property. It sold to a credit union. After construction of a new building Sale 3 currently has one and one-half acres listed for sale.

Sale 4 sold for \$8.00 a square foot in 2008 and is located directly north of Lowe's. It is currently listed for sale at \$10.35 per square foot. This indicates to Waszak that the market value for the area has increased in value and not declined as indicated by Allen.

Sale 5 is the same as Petitioner's Sale 1. This is the smallest square footage, thus Waszak adjusted it 10% for size.

Waszak was not aware that the parties stipulated to \$225,000 demolition costs and indicated he would need to adjust his final value. He determined the value for 2010 and adjusted the values according to his 3% annual market adjustment.

### Tribunal's Findings of Fact

1. Subject property is located at 930 South 11<sup>th</sup> Street, Niles, Berrien County.
2. The highest and best use of the subject property was stipulated to as a vacant parcel containing 4.35 acres.
3. The parties stipulated to \$225,000 for razing the building on the subject property.
4. Both parties amended the final value to reflect 4.35 acres.
5. The area surrounding the big box stores has a regional draw for more participants shopping.
6. Subject property is located two miles from the 2000 Block of 11<sup>th</sup> Street with local draw.

### Applicable 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 Michigan Supreme Court, in *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473; 473 NW2d 363 (1991), acknowledged that the goal of the assessment process is to determine "the usual selling price for a given piece of property." In determining a property's true cash value or fair market value, Michigan courts and the Tribunal recognize the three traditional valuation approaches as reliable evidence of value. See *Antisdale v Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984).

"The petitioner has the burden of establishing the true cash value of the property...."  
MCL 205.737(3); MCL 211.27(1); *Meadowlanes, supra*. "This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to

the opposing party.” *Jones & Laughlin Steel v City of Warren*, 193 Mich App 348; 483 NW2d 416 (1992), at 354-355, citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77(1976); *Holy Spirit Ass’n for the Unification of World Christianity v Dept of Treasury*, 131 Mich App 743, 752; 347 NW2d 707(1984).

The three most common approaches to valuation are the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach. *Meadowlanes*, at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170; 141 NW2d 699 (1966), aff’d 380 Mich 390 (1968); *Antisdale*, at 276. 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. *Antisdale*, at 277.

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. *Meadowlanes*, at 484-485; *Pantlind Hotel Co v State Tax Commission*, 3 Mich App 170; 141 NW2d 699 (1966), aff’d 380 Mich 390 (1968). The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale*, p. 278. 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. *Antisdale*, p. 277. The Tribunal finds that the appropriate method of determining the true cash value of the subject property for the tax years at issue is the sales comparison approach.

The Tribunal may not automatically accept a respondent's assessment but must make its own finding of fact and arrive at a legally supportable true cash value. *Pinelake Housing Cooperative v Ann Arbor*, 159 Mich App 208, 220; 406 NW2d 832 (1987); *Consolidated Aluminum Corp v Richmond Twp*, 88 Mich App 229, 232-233; 276 NW2d 566 (1979). The Tribunal is not bound to accept either of the parties' theories of valuation. *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 377 NW2d 908 (1985). 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. *Meadowlanes*, at 485-486; *Wolverine Tower Associates v City of Ann Arbor*, 96 Mich App 780; 293 NW2d 669 (1980); *Tatham v City of Birmingham*, 119 Mich App 583, 597; 326 NW2d 568 (1982).

#### Conclusions of Law

The Tribunal finds that both MAI's utilized the sales comparison approach to determine the market value of subject property. Petitioner's valuation witness, Allen, was not as familiar with the community as Respondent's valuation witness, Waszak, who lives in Niles. This has both advantages and disadvantages. When an appraiser does not go outside of his home perimeters he gets too close and cannot always see the forest for the trees. In this specific instance, Waszak testified that the Lowe's and Wal-Mart locations adjacent to each other are not a value influence on the properties that are in close proximity to them. The Tribunal, after placing the sales by both parties on a grid, finds that it is apparent that the 2000-2100 block of South 11<sup>th</sup> Street sells for more per square foot than the 900 block of South 11<sup>th</sup> Street where the subject property is

located. The 2000-2001 block of South 11<sup>th</sup> Street is several miles closer to the Indiana border with an estimated traffic count of 23,000 per day.

Waszak testified that the subject property has the same market influences as the properties in close proximity to the big box stores. The subject property has the draw of the local grocery store and Walgreen's, which he believes is the same market influence as the big box store regional draw for customers. The Tribunal finds that this is a misperception on Waszak's part. The sales grid indicates that there is a difference of several dollars per square foot for the location that is two miles closer to the border and in close proximity to the big box stores. Respondent's Sales 2, 3, and 4 sold for an unadjusted range of \$5.27 to \$8.26 per square foot, not including two listings for \$10.25 per square foot. The sales north of the 2000-2100 blocks (US-12) sold for a range of \$3.69 to \$5.70 with one listing for \$6.57.

The adjustment for difference in market conditions was a contested issue between the two expert witnesses. Petitioner's appraiser spoke to local brokers, and determined that the changes in vacant land values from 2008 through 2010 (the tax years at issue) was a 17% decline. Respondent's appraiser used a 2002 sale and compared it to Sale 5 (Petitioner's Sale 1). He determined a growth of 4% per year that he rounded to 3% growth for the stronger "perceived" economy at the beginning of the measurement period than at the end. Respondent did not present evidence that the vacant land value increased during the great economic recession of 2008, or that the community was immune. Petitioner's area analysis indicates that population, size, and retail sales were forecasted to decrease while average household income will increase similar to the

state. Unemployment increased since 2001 and was at 10.7% in 2010. Respondent's economic information was from 2000; this Tribunal did not find it updated to the years at issue. This could be one of the reasons why Waszak incorrectly believed that values continued to increase between 2002 and 2008.

The Tribunal finds that the market value for commercial property decreased for the years at issue based on the area analysis, and Petitioner's discussions with local brokers as well as a state-wide land study by Allen. The Tribunal further finds that the data on which Respondent relied upon to indicate a positive economic climate was stale. The economy decline began in 2008 and continued for the years under contention. Waszak's increase in value for the sales after 2008 is not based on time-appropriate information. When the sales information was arrayed in chronological order, it is a fact that the sale prices per square foot declines for the newer sales.

Petitioner's appraisal included some changes to the adjustments for the sales. Allen neglected to add the demolition costs for Sale 1. Petitioner's Sale 2 and Respondent's Sale 1 are the same property; Petitioner uses \$7.93 per square foot demolition costs and Respondent uses \$3.05 per square foot demolition costs. The Marshall Valuation Services indicates approximately \$5.00 per square foot demolition for a class D property located in Niles. This decreases Petitioner's value and increases Respondent's value for 1260 South 11<sup>th</sup> Street.

Respondent failed to consider that properties located south of US-12 have the market influence of the big box stores (Lowe's and Wal-Mart) and therefore, command a higher dollar per square foot. This is clear to the Tribunal when all of the sales are placed on the same grid. The unadjusted sale prices per foot are higher than the sales located



closer to the subject property as evidenced by Respondent's Sales 2, 3, and 4 (located in the 2000 Block of 11<sup>th</sup>) . This theory was presented by Allen and appears to be correct.

The appraisers were also not in agreement as to whether the vacant land values increased or decreased from early 2008 to December 31, 2010. Allen states that the economic recession that influenced properties indicates a decrease in market value using a paired sales analysis. Waszak also uses a paired sales analysis but uses a 2002 to 2008 sale for his adjustment. He recognizes that the economy was not as strong and adjusts his market increase to 3%. Waszak failed to take into consideration that the sales after 2008, when compared with newer sales, indicate a decline in market value. Waszak uses a listing of his Sale 4 as another indication that the market is increasing. This is also misleading as he failed to discuss with the local broker the basis for the listing and where the market would end for the value.

The Tribunal finds that although Waszak is the local appraiser with knowledge of the market he lacks knowledge as to the buyer or seller motivations. He "verified" his sales using public documents or looking at public records. There is a definite difference between confirming that a sale took place and inquiring as to any motivations or insights to the sale from the buyer, seller, or a broker who is familiar with the sale. "Referencing public records and data services does not verify a sales transaction. It simply confirms that a transaction was recorded. Similarly, referencing the source of secondary data only confirms its existence and does not verify the transaction." Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13th ed, 2008), p 305. If Waszak would have confirmed some

information it is possible that the broker would have also indicated to him that land values for 2008 to 2010 did not increase.

Waszak stated that the asking price of Comparable Sale 4 is higher than the original sale that took place in April, 2008. He did not inquire why it was relisted for sale or note its location is directly north of Lowe's. This is opposite of Allen, who did speak to the broker for his use of Petitioner's Comparable 4, which is a listing that decreased in asking price for the years at issue. The broker opined what he believed the property would actually sell for. The Tribunal finds that the value of vacant land would decrease in value from December 31, 2008 to December 31, 2010. The following is a depiction of the parties' sale grid using all of the sales in chronological order:

Sale No.	R-4	R-3	P-1/R-5	P-3	R-2	P-2/R-1	P-4
Address	2045 11th	2108 11th	1244 S 11th	1000 Moore	2018 11th	1260 S 11th	1236 11th
Sale Date	Apr-08	Aug-08	Sep-08	Jul-09	Sep-09	Jun-10	Offering
Sale Price	\$592,416	\$1,565,000	\$238,500	\$265,000	\$450,000	\$190,000	\$249,000
Size/Acres	1.70	4.35	0.60	1.65	1.96	0.89	0.87
Square Feet	74,052	189,486	26,136	71,874	85,378	38,768	\$6.57
SP/SF	\$8.00	\$8.26	\$9.12	\$3.69	\$5.27	\$4.90	
Adjustments							0.08
Cond of Sale						1.10	0.71
Mkt Conditions	0.06	0.06		1.06	0.03	1.17	
Size			0.66	0.81		0.71	\$3.73
Utility				1.50			
Adj/SP SF	\$8.48	\$8.75	\$6.02	\$4.73	\$5.43	\$4.52	3.73
191,228 SF	\$1,621,613	\$1,673,245	\$1,151,193	\$904,508	\$1,038,368	\$864,351	\$713,280
\$225,000 Deduct	\$1,396,613	\$1,448,245	\$926,193	\$679,508	\$813,368	\$639,351	\$488,280
Final SP/SF	\$7.30	\$7.57	<b>\$4.84</b>	\$3.55	<b>\$4.25</b>	<b>\$3.34</b>	\$2.55
R adj			\$8.71		\$4.39	\$6.99	
			\$632,025		Petitioner	\$1,337,635	
			\$407,025			\$1,112,635	
			\$5.61			\$5.82	

The Tribunal finds that the market value of the subject property for 2008 is \$4.84 per square foot, for 2009 is \$4.25 per square foot, and for 2010 \$3.34 per square foot.

The Tribunal has considered both appraisals and found Petitioner's to be more credible with some minor adjustments.

### JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax year at issue shall be as set forth in the *Summary of Judgment* section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year 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 90 days of the entry of the Final Opinion and Judgment, the 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, 1995 at the rate of 6.55% for calendar year 1996, (ii) after December 31, 1996 at the rate of 6.11% for calendar year 1997, (iii) after December 31, 1997 at the rate of 6.04% for calendar year 1998, (iv) after December 31, 1998 at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999 at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000 at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001 at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003 at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004 at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005 at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006 at the rate of 5.42% for calendar year 2007, and (xiii) after December 31, 2007 at the rate of 5.81% for calendar year 2008, (xiv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, (xv) after December 31, 2009, at

the rate of 1.23% for calendar year 2010, (xvi) after December 31, 2010, at the rate of 1.12% for calendar year 2011, and (xvi) after December 31, 2011, at the rate of 1.09 for calendar year 2012.

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

MICHIGAN TAX TRIBUNAL

Entered: March 22, 2012

By: Victoria L. Enyart