

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

HJS Village Square Property Co., LLC d/b/a Village Square Apartments,  
Petitioner,

v

MTT Docket No. 373904

City of Detroit,  
Respondent.

Tribunal Judge Presiding  
Preeti Gadola

**FINAL OPINION AND JUDGMENT**

Introduction

Petitioner, HJS Village Square Property Co. LLC d/b/a Village Square Apartments, appeals the ad valorem property tax assessment levied by Respondent, City of Detroit, against the real property owned by Petitioner for the 2009-2011 tax years (parcel number: 16008289-90). The property under appeal consists of six multi-family residential dwellings (apartment buildings) located at 17150 Meyers in the city of Detroit, Michigan. Petitioner was represented by Herbert Strather and Respondent was represented by Kevin Richard, attorney. Mr. Strather testified on Petitioner's behalf and Respondent presented no witnesses. The hearing of this matter occurred on November 27, 2012.

Respondent, City of Detroit, assessed the property as follows:

**Parcel Number: 16008289-90**

Year	TCV	SEV	TV
2009	\$2,383,654	\$1,191,827	\$893,524
2010	\$2,252,554	\$1,126,277	\$890,843
2011	\$2,139,926	\$1,069,963	\$905,987

Petitioner's contentions of the property's True Cash Value ("TCV"), State Equalized Value ("SEV"), and Taxable Value ("TV"):

**Parcel Number: 16008289-90**

Year	TCV	SEV	TV
2009	\$1,400,000	\$700,000	\$700,000
2010	\$860,000	\$430,000	\$430,000
2011	\$1,400,000	\$700,000	\$700,000

Based on the evidence, testimony, and case file, the Tribunal finds that the TCV, SEV, and TV of the subject properties for the years under appeal are as follows:

**Parcel Number: 16008289-90**

Year	TCV	SEV	TV
2009	\$1,600,000	\$800,000	\$800,000
2010	\$1,600,000	\$800,000	\$797,600
2011	\$1,600,000	\$800,000	\$800,000

**PETITIONER'S ADMITTED EXHIBITS**

Petitioner did not submit any exhibits.

**PETITIONER'S WITNESS**

Herbert Strather

Mr. Strather testified that he acquired the subject property in 1977 and that the occupancy has been stable, other than in 2008-2010, when the real estate market in Detroit greatly diminished. At that time the subject property sustained vacancy rates of 35 %. Mr. Strather testified that in 2011, the occupancy started to come back and he was able to sell the building for \$1,600,000 in December, 2011.

**RESPONDENT'S ADMITTED EXHIBITS**

R-1 Excerpt of the subject property on the tax roll

R-2 Property Record Cards of the subject property listing its value as of 2010-2013.

R-3 Valuation Report of the subject property for 2013

**RESPONDENT'S WITNESS**

Respondent did not present any witnesses.

### **FINDINGS OF FACT**

1. The subject property (parcel number: 16008289-90) consists of six multi-family residential dwellings (apartment buildings) located at 17150 Meyers in the city of Detroit, Michigan.
2. The subject property is classified as commercial, real and was built in phases from 1950-1952.
3. The subject property was assigned a percentage good of 85% on the property record card.
4. The subject property had an effective age of 8 years on the property record card.
5. The subject property was sold on December 1, 2011, for \$1,600,000.

### **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. See MCL 211.27(a).

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%....  
Const 1963, art 9, sec 3.

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 assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1); MSA 7.27(1).

The Michigan Supreme Court has determined that "true cash value" is synonymous with "fair market value." See *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450; 221 NW2d 588 (1974).

Under MCL 205.737(1), the Tribunal must find a property's true cash value in determining a lawful property assessment. See *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal is not bound to accept either of the parties' theories of valuation. See *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378; NW2d 590 (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. See *Meadowlanes Ltd. Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 485-486; 473 NW2d 636 (1991).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735a(2). The Tribunal's factual findings are to be supported by competent, material, and substantial evidence. See *Antisdale v City of Galesburg*,

420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990). "Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence," *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

"The petitioner has the burden of establishing the true cash value of the property." MCL 205.737(3). "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* at 354-355. However, "[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessment 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." MCL 205.735(3).

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. See *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. See *Antisdale*.

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. See *Antisdale*, at 277.

Respondent presented no witnesses or testimony regarding the 2009-2011 fair market values of the subject property. It did, however, enter three exhibits into the record: R-1, an excerpt of the tax roll listing “MBOR Assessed,” state equalized and taxable values for the properties. R-2 consisted of record cards listing the 2010-2013 values of the subject property, and R-3 was the 2013 valuation report for the subject property. The Tribunal did not find R-1 through R-3 to be probative in determining the true cash value of the subject property for the tax years in question. R-1 essentially presented numbers only (no calculations) regarding the state equalized and taxable values for the property. R-2 and R-3 consisted of the property record cards listing 2010-2013 values and a valuation statement for the six apartment buildings for the 2013 tax year. The Tribunal does not find R-1 through R-3 to be probative as the subject property was built in phases from 1950-1952, yet Respondent assigned it an effective age of eight years. Furthermore, the property was given a percentage good of 85%. The property

record card indicates that a building permit was pulled on February 22, 2011, to complete some alteration/renovation to the property which the Tribunal opines might explain the percent good and effective age; however, no testimony was given and no explanation was found on the property record cards. Further, the alteration/renovation in 2011 does not pertain to the 2009-2011 values of the property. (Tax dates for the 2009, 2010 and 2011 tax years would be December 31, 2008, December 31, 2009 and December 31, 2010) Also, the assessed value of the property decreased from 2011 to 2012, possibly reflecting that the alteration/renovation did not greatly affect the value of the property.

The tax collecting unit is obligated to present evidence supporting its determination of value. An assessment, once challenged, even if it does not satisfy the taxpayer's burden of proof, requires a response because, regardless of the assessor's proofs in litigation, the tribunal must independently determine the value. *Jones and Laughlin, supra*. Further, “[e]ven if the tribunal had correctly concluded that petitioner's proofs had failed; the tribunal is still required to make an independent determination of the true cash value of the property.” *Charter Oak Homes v City of Detroit*, unpublished opinion per curiam of the Court of Appeals, issued October 6, 2011 (Docket No. 297509), p. 4. The Court in *Charter*

*Oak Homes* indicated that the Tribunal is precluded from “simply rubber stamping” the assessments at issue.

The subject property sold for \$1,600,000 on December 1, 2011. Mr. Strather testified that at the time of sale, the property had recovered from its large vacancy rate. While the Tribunal acknowledges that the sale price of a property is not the only evidence of the fair market value of a property, in this case, it is the best evidence presented to the Tribunal in making its independent determination of the value of the subject property for the 2009-2011 tax years.

In this matter, the Tribunal concludes that the evidence, testimony, and case file indicate that the subject property is assessed in excess of 50% of market value. The Tribunal is charged in this valuation appeal to independently determine the true cash value of the subject property as of each tax year at issue. The Tribunal determines that the preponderance of the evidence suggests that the assessment of the subject property should be modified.

### **JUDGMENT**

The subject property’s true cash value (TCV), state equalized value (SEV), and taxable value (TV) for the 2009-2011 tax years are as stated in the Introduction section above.

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 value 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 the Final Opinion and Judgment within 28 days of the entry of the Final Opinion and Judgment. 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 this Final

Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2008, at the rate of 3.31% for calendar year 2009, ii) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (iii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iv) after December 31, 2011, and prior to July 1, 2012, at the rate of 1.09% for calendar year 2012; (v) after June 30, 2012 and prior to January 1, 2013, at the rate of 4.25%; and (vi) after December 31, 2012, and prior to July 1, 2013, at the rate of 4.25%.

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

MICHIGAN TAX TRIBUNAL

By: Preeti Gadola

Entered: January 14, 2013